REPLY EXHIBIT 1

EPSTEIN
BECKER
GREEN

Attorneys at Law

Steven M. Swirsky
t 212.351.4640
f 212.878.8600
sswirsky@ebglaw.com

January 6, 2017

VIA E-FILING

Genaira L. Tyce, Esq.
Senior Field Attorney
National Labor Relations Board
Region 29
Two Metro Tech Center, Suite 5100
Brooklyn, NY 11201

Re: Winthrop Management, Northwell Health, Inc. and Waterstone Development Group, Individually and as Joint Employers – Case No. 29-CA-184213

Winthrop Management, Northwell Health, Inc. and Paris Maintenance Company, Inc., Individually and as Joint Employers and Successors to Winthrop Management, Northwell Health, Inc., and Donnelly Mechanical Corp., Individually and as Joint Employers – Case No. 29-CA-188433

Winthrop Management, Northwell Health, Inc., and Paris Maintenance Company, Individually and as Joint Employers – Case No. 29-CA-190091

Dear Ms. Tyce:

This firm represents and submits this position statement on behalf of Northwell Health ("Northwell"), one of the multiple respondents named in the above-referenced unfair labor practice charges (collectively, the "Charges"), each of which was filed by International Union of Operating Engineers Local 30 ("Local 30" or the "Union").[1] The charge in Case No. 29-CA-184213 (the "First Charge") was filed by Local 30 on September 14, 2016 and the Union filed an

[1] Northwell is submitting this position statement to assist the Board in its investigation of the Charges. Inclusion of information in this position statement does not constitute a waiver of any objections Northwell may have to this or future information requests or to the introduction of evidence in this case or any other proceeding. Further, this position statement is intended to be Northwell's summary response to the allegations raised in the Charges and reflects Northwell's knowledge and understanding of the facts at this time. It is not intended to be an exhaustive treatment of any and all evidence that may be available to Northwell, and it should not be interpreted to signify that Northwell has completed all investigations it may wish to pursue in this matter. Northwell expressly reserves the right to supplement or modify the information contained herein, as it may become aware of additional facts and information. Similarly, the fact that Northwell has asserted certain defenses herein shall not constitute a waiver of any or all of its other defenses. In addition, the information provided herein, and all further submissions, if any, are strictly confidential, shall be used only for the determination of the Charges, and should not be divulged without the prior express written authorization of Northwell or its counsel.

amended charge in that case (the "Amended First Charge") on November 18, 2016. The First Charge named Northwell, Winthrop Management ("Winthrop"), and Waterstone Development Group ("Waterstone") as respondents and alleged that they were joint employers of certain employees formerly represented by the Union. In the Amended First Charge, the Union named as respondents "Winthrop Management, Northwell Health, Inc., and Paris Maintenance Company, Inc., Individually and as Joint Employers." As discussed below, although we have asked the Board to explain the reason that the Union dropped Waterstone as a respondent when it amended the First Charge, you have declined to provide us with any substantive explanation or to answer any of our questions concerning this fact.

Also on November 18, 2016, the Union filed the charge in Case No. 29-CA-188433 (the "Second Charge"). The Second Charge names "Winthrop Management, Northwell Health, Inc., and Paris Maintenance Company, Inc., Individually, and as Joint Employers and Successors to Winthrop Management, Northwell Health Inc., and Donnelly Mechanical Corp., Individually and as Joint Employers" as respondents.[2]

On or about December 16, 2016, the Union filed yet another charge in Case No. 29-CA-190091 (the "Third Charge"). "Winthrop Management, Northwell Health, Inc., and Paris Maintenance Company, Inc., individually, and as joint employers," are named as respondents in the Third Charge.

While the Region has sent Northwell Equal Access to Justice Act letters (the "EAJA Letters") in cases 29-CA-184213 and 29-CA-188433, as of this date we have not received an EAJA letter in Case No. 29-CA-190091, nor has the Region provided Northwell or its counsel with any information as to the basis for the Third Charge or what if anything the Union is now alleging that it did not previously allege in the First Charge, the Amended First Charge, or the Second Charge.

As each of the Charges arises out of a common set of facts, Northwell submits this position statement in response to all of the Charges. In fact, the respective Charges repeat or simply restate many of the same allegations. As is explained in detail herein, Northwell denies all of the allegations in the Charges, including the claims that it was at any time relevant to any of the Charges either a joint employer with or a successor to any of the other named respondents. It also denies that it has violated the Act as alleged in these Charges and it therefore requests that the Region issue dismissal letters in each case confirming a finding that the allegations are not supported by the evidence and are without any basis in law or fact.

---

[2] The Board's identification of the respondents in the caption of the Second Charge, i.e., Winthrop, Northwell, *and Paris*, as joint employers and successors *to Donnelly*, is inconsistent with the allegations in the text of the Second Charge, wherein the Union alleges in the text of the Second Charge that Winthrop, Northwell, *and Donnelly* are joint employers and successors *to Paris*.

I. THE AMENDED FIRST CHARGE

The Amended First Charge alleges that since on or about June 29, 2016, Northwell, Winthrop, and Paris Maintenance Company, Inc. ("Paris"), which entities the Union claims to be joint employers, have violated Sections 8(a)(1) and (5) of the National Labor Relations Act, as amended, in that they have allegedly "failed to bargain collectively with the Union, a labor organization chosen by a majority of its employees in an appropriate unit, by failing to notify the Union about the Employer's loss of its contract with IPARK Condominium and subsequent business closure, by failing to bargain with the Union over the effects of the loss of its contract with IPARK Condominium, and by failing to bargain with the Union over employee layoffs that resulted from the Employer's loss of its contract with IPARK Condominium."[3]

II. THE SECOND CHARGE

The Second Charge alleges that since on or about June 29, 2016, Winthrop, Northwell, and Donnelly Mechanical Corp. ("Donnelly"), which entities the Union claims to be joint employers and successors to Paris, have violated Sections 8(a)(1), (3), and (5) of the Act by "fail[ing] to hire and consider for hire Local 30 bargaining unit members in order to avoid a collective bargaining obligation."

III. THE THIRD CHARGE

The Third Charge alleges that "on or about June 29, 2016," Winthrop, Northwell and Paris "terminated employee(s) and refused to pay said employee(s) their accrued benefits and severance because of their membership in and activities on behalf of the International Union of Operating Engineers Local 30," and that "at all times since said date, it (sic) has refused to re-employ or pay said employee(s) their accrued benefits and severance."

The Third Charge also alleges that Winthrop, Northwell, and Paris "refused" in an unspecified manner "to bargain collectively with the Union . . . for the purpose of collectively bargaining with respect to rates of pay, wages, hours of employment and other terms and conditions of employment," and by "failing and/or refusing to bargain with the Union over (i) the termination of the above-referenced employee(s); and (ii) the failure to pay said employee(s) their accrued benefits and severance, and by failing and/or refusing to process the Union's grievance challenging the Employer's conduct that is the basis of this charge."

Notably, while the Third Charge refers in several places to "the above referenced employee(s)," in fact the Third Charge does not identify any employees, and also fails to identify (1) the actual employer that it contends has engaged in such activity, (2) the grievance in question, (3) which entity the Union purportedly filed the grievance with, (4) the subject matter of the grievance, or (5) the date/time when the grievance was allegedly filed.

---

[3] Northwell believes that the contract referred to in the First Charge and the Amended First Charge was a contract under which Paris was retained by Winthrop to provide certain services.

IV. THE BOARD'S EAJA LETTERS

In connection with the Amended First Charge, the Board sent Northwell a letter dated November 28, 2016 (the "First EAJA Letter"), which requests Northwell's response to each of the following allegations:

1. The Charging Party alleges that Winthrop Management, Northwell Health Inc. and Paris Maintenance (collectively, "the Employers"), constitute Joint Employers of the employees represented by the International Union of Operating Engineers, Local 30 (the "Union") who were working on behalf of Paris Maintenance and/or Winthrop Management and/or Northwell Health, Inc. at I-Park Condominium, located at 1111 Marcus Avenue, New Hyde Park, New York, and who were terminated on June 29, 2016.

2. The Charging Party further alleges that the Employers have failed to bargain collectively with the Union, a labor organization chosen by a majority of its employees in an appropriate unit, by:

    a. Failing to notify the Union about the Employer's loss of its contract with IPARK Condominium and subsequent business closure,

    b. Failing to bargain with the Union over the effects of the loss of its contract with IPARK Condominium, and

    c. Failing to bargain with the Union over employee layoffs that resulted from the Employer's loss of its contract with IPARK Condominium.

On December 21, 2016, the Board sent Northwell a letter in connection with the Second Charge (the "Second EAJA Letter"), and requested that Northwell respond to the following allegations:

1. The Charging Party alleges that Winthrop, Northwell, and Donnelly (collectively, the "Employers") constitute joint employers under the Act and are successors to Winthrop, Northwell, and Paris (collectively, the "Predecessors") as joint employers.

2. The Charging Party further alleges that the Employers have failed to hire and consider for hire Local 30 bargaining unit employees in order to avoid a collective bargaining obligation.

Both the First and Second EAJA Letters include the Board's request for information and documents in connection with its investigation of the First and Second Charges. As of this date, the Region has not provided Northwell or its counsel with an EAJA Letter regarding the Third Charge.

None of the Charges allege any facts that would support the Union's assertions that Northwell, Winthrop, Paris, or Donnelly are joint employers, or that Northwell was under any obligation to recognize or bargain collectively with the Union on any matter related to the work performed by Local 30 members at I Park.

The Charges also fail to allege any facts that would support the Union's assertions that Northwell or any other charged party is in any way a successor to Paris or any other employer, or that would support the assertion that either Northwell, Winthrop, or Donnelly had any obligation to hire or employ any of the persons who had been employed by Paris, to make any payments of any type to any former Paris employee, or to process any grievances that may have arisen or been filed by the Union pursuant to its collective bargaining agreement or agreements with Paris.

Although we requested that the Board provide us with at least a summary of the facts that the Union claims demonstrate joint employer and successor status, you declined to do so. We also requested a summary of any facts the Union presented as evidence of a prima facie case as to the alleged ULP conduct and the alleged joint employer and successor status, but you declined to provide us with even a summary of the facts the Union contends supports these assertions. While Northwell wishes to cooperate, the Region's failure and refusal to provide Northwell with any description of the facts in question and to instead refer Northwell to the Charges themselves severely prejudices Northwell and is not only inconsistent with the Board's obligations under its Rules and Regulations but is also a fundamental denial of due process. Nonetheless, and with full reservation of all of its rights, Northwell responds to the allegations as it understands them in this position statement.

V. RELEVANT FACTS AND BACKGROUND

A. Northwell

Northwell[4] is a fully integrated health care system that provides seamless, coordinated medical care and patient services to more than 8 million New Yorkers. Northwell provides its clinical care in 21 hospitals and more than 450 patient facilities and physician practices, with thousands of specialists and other specialty programs and institutes.

Northwell and the various hospitals and other facilities that comprise the health system conduct their operations out of a wide variety of buildings in New York City, on Long Island, in Westchester, and elsewhere in the New York metropolitan area. While some operations are conducted in buildings owned by Northwell and/or entities that are part of its system, many are located in properties where Northwell is a tenant under a lease or other commercial arrangement.

[4] Northwell was formerly known as the North Shore-Long Island Jewish Health System ("NSLIJHS").

B. The History of The Building That is The Subject of The Charges

The Charges relate to 1111 Marcus Avenue, a 1.4 million square foot office and commercial property situated in Lake Success, New York. This property, now commonly referred to as "I Park," was originally developed by the Sperry Gyroscope Corporation as an industrial, research, and manufacturing plant shortly before World War II. Since that time it has been used for a number of commercial and civic purposes, including serving as an early temporary home of the United Nations in the late 1940's. Lockheed Martin Corporation ("Lockheed") was the final industrial owner-occupant and conducted operations at the property until approximately 1996.

Following Lockheed's relocation of its remaining operations from the facility, the property was sold and subsequently redeveloped for commercial and office use, with approximately 1.4 million square feet of space. In 2002, Northwell leased an initial space of approximately 92,000 square feet at I Park. Several years later, Northwell expanded its leasehold to approximately 457,000 square feet.

C. The Facility is Converted Into a Condominium

In or about June 2006 the then-owners of 1111 Marcus Avenue converted the property to a commercial condominium, known as "1111 Marcus Avenue Condominium" (the "Condominium"). Under the Declaration of Condominium, the Condominium consists of two office condominium units, each of which is separately-owned. The two units are known respectively as "Unit 1" (which consists of approximately 920,000 square feet of space) and "Unit 2" (which consists of approximately 475,000 square feet of space).[5]

Pursuant to the Condominium's Bylaws and other governing documents, the affairs of the Condominium are governed by a three-member Condominium Board (the "Condominium Board"). The owner of Unit 1 has two seats on the Condominium Board, while the owner of Unit 2 has one seat on the Condominium Board.

From October 2004 until March 2015, Northwell and members of the Northwell health system occupied portions of Unit 2 as a tenant. In March 2015, Northwell purchased Unit 2 and continues to use and occupy the majority of the space in Unit 2.

---

[5] A copy of the following documents are attached hereto as Exhibit A: (1) "Declaration of Condominium Establishing 1111 Marcus Avenue Condominium," dated June 16, 2006, which includes the By-Laws of 1111 Marcus Avenue Condominium at Schedule D; (2) "First Amendment to the Declaration of Condominium of 1111 Marcus Avenue Condominium," dated September 24, 2012; (3) "Amendment to Declaration and the Bylaws of Condominium of 1111 Marcus Avenue Condominium," dated June 20, 2014; and (4) "Third Amendment to Declaration of Condominium of 1111 Marcus Avenue Condominium," dated March 26, 2015.

Until December 2015, Unit 1 was owned by Blackstone Group ("Blackstone"), at which time Waterstone acquired Blackstone's ownership interest in Unit 1.[6] Subsequently, Northwell entered into a 30-year lease-to-own-agreement with Waterstone. Under that agreement, Northwell leases portions of Unit 1 (about 77% of its rentable square footage) from Waterstone. Under its lease from Waterstone, Northwell pays Waterstone rent for the space at Unit 1. Northwell uses and occupies a portion of Unit 1's 920,000 square feet, while other tenants of Waterstone, some of whom are sub-tenants of Northwell, occupy the remainder of Unit 1. Under this arrangement, Northwell acts as a sub-landlord to some of the other tenants in Unit 1.

D. The Relationship Between The Condominium And Winthrop

The Condominium's Bylaws authorize the Condominium Board to retain a Managing Agent to manage what are referred to as the "General Common Elements" of the Condominium. The General Common Elements are defined in the Declaration of Condominium to include the land on which the building is situated, parking areas and sidewalks adjacent to the structure, and a common lobby used to access both Unit 1 and Unit 2.

To that end, the Condominium Board contracted with Winthrop to serve as Managing Agent for the I Park property. The Condominium Board and Winthrop have had a long-standing arms-length commercial relationship under a series of written contracts; they entered into their most recent contract in March 2015. (A copy of this agreement between the Condominium (acting through the Condominium Board) and Winthrop, hereinafter referred to as the "Management Contract," is attached as Exhibit B).

Pursuant to the Management Contract, Winthrop is responsible for performing the enumerated functions related to the maintenance and repair of the Condominium's General Common Elements, including landscaping, painting, roofing, cleaning, and other ordinary (and extraordinary) repair and maintenance work that might be necessary or requested by the Condominium Board. The Management Contract provides that all actions taken by Winthrop (if approved by the Condominium Board and in connection with their management and maintenance responsibilities) will be as an agent of the Condominium Board. (*See* Management Contract, Article 4). The Management Contract also makes clear that it is not intended to and does not

---

[6] Waterstone was initially named as a respondent in the First Charge. It is Northwell's understanding that, at some time in November 2016, Local 30 amended the First Charge to remove any references to Waterstone and to withdraw the allegations that Waterstone was a joint employer with Winthrop and/or Northwell. While we have repeatedly requested that the Board Agent responsible for the investigation of the Charges explain the basis for the Union's decision to request to amend the First Charge to delete all references to Waterstone, all we have been told was that some party, possibly the Union or possibly the Region, concluded that there was no evidence to support the allegations in the First Charge as to Waterstone.

While we have also asked that the Region provide at least some explanation as to how the evidence against Waterstone varied from that against Northwell, the minority owner of shares in the Condominium, the Region has refused. It is the position of Northwell that this refusal constitutes a denial of due process, which deprives Northwell the opportunity to respond in a meaningful way to the allegations in the Charges and the evidence presented by the Union.

create a joint venture or partnership between the Condominium Board and Winthrop. (*See id.*, Article 14).

The Management Contract also defines the relationship between Winthrop and the Condominium Board as an independent contractor relationship. Winthrop is not an employee of the Condominium Board, nor are Winthrop and the Condominium Board engaged in a joint venture. (*See id.*, Article 14). Indeed, to the best of Northwell's knowledge, at no time has the Condominium or the Condominium Board ever had any employees.

E. The Agreements With Paris

1. The Stationary Engineers Contract

Winthrop, as Managing Agent of the Condominium, contracted with a number of other companies to provide services necessary at various times for the maintenance and operation of the Condominium, including the building and land, including the provision of equipment and facilities necessary for the safe and efficient operation and occupancy of the Condominium. In some instances, these agreements are for a limited duration or for a particular project or purchase, while others are in connection with the ongoing maintenance and operation of the property. One such contractor with which Winthrop contracted (on behalf of the Condominium) was Paris.

Most recently, on April 26, 2016, Winthrop and Paris entered into a month-to-month contract pursuant to which Paris agreed to provide and supervise Stationary Engineers to perform various work at the I Park facility. (A copy of this agreement, hereinafter referred to as the "Stationary Engineers Contract," is attached as Exhibit C).[7] The Stationary Engineers Contract required Paris to manage and supervise on-site Stationary Engineers in their performance of various services including: (1) repair and preventative maintenance of HVAC (heating, ventilating, air conditioning) equipment, as well as fire and other safety systems, (2) respond to tenant requests issued through work orders, and (3) respond to emergencies and service requests made by Winthrop or the owners of the Condominium Units.

Pursuant to the Stationary Engineers Contract, Paris agreed to perform all of its services using its own employees and agents. Paris also agreed that it alone was responsible for hiring, training, and supervising all employees it assigned to work at the I Park facility, and that neither Winthrop nor the Condominium had any authority to hire, train, or fire any Paris employee performing services at I Park.

The Stationary Engineers Contract provided that it could be terminated, with or without cause, at any time upon 30-days' written notice by either Winthrop, as agent for the

[7] A prior agreement for these engineering services had been entered into between Winthrop (on behalf of the Condominium) and Paris for the period beginning on May 1, 2014 and expiring on April 30, 2016. (A copy of this prior agreement is attached hereto as Exhibit D.) The Stationary Engineers Contract continued the terms of the original contract on a month-to-month basis.

Condominium, or Paris. In the event of such a termination of the arrangement, any and all payments to Paris would cease on the date the termination notice is given, and as of that date, Paris employees would no longer be expected or permitted to work on the I Park property. Under the Stationary Engineers Contract Winthrop did not have any obligation to reimburse Paris for any severance of other obligations it may have had to its Local 30-represented employees, nor did Winthrop have any obligation to employ or consider for employment any of Paris's employees.

2. The Roofer Labor Services Contract

On October 1, 2015, Winthrop (on behalf of the Condominium Board) entered into another agreement with Paris, referred to as the Roofer Labor Services Contract. This agreement took effect on that date and was set to expire on September 30, 2016 if not terminated earlier as permitted under the Roofer Labor Services Contract. (A copy of this agreement, hereinafter referred to as the "Roofer Labor Services Contract," is attached hereto as Exhibit E). Pursuant to the Roofer Labor Services Contract, Paris agreed to coordinate and oversee all roof-top equipment installations at the Condominium, as well as to provide necessary and requested repairs and maintenance to drains and other rooftop areas. Paris agreed that it would perform all of these services using its own employees and agents, and that it would be responsible for hiring, training, and supervising all employees assigned to work at the I Park facility. Under the Roofer Labor Services Contract, neither the Condominium nor Winthrop had any authority to hire, train or fire any employee performing services for Paris on the property.

3. Paris Enters Into a Collective Bargaining Agreement With Local 30

It is Northwell's understanding that Paris entered into a collective bargaining agreement with Local 30 (effective as of May 1, 2013), which governed the terms and conditions of employment for certain of Paris's employees working at I Park. (A copy of the collective bargaining agreement between Paris and Local 30, hereinafter referred to as the "Paris-Local 30 CBA," is attached as Exhibit F). Neither Northwell nor Winthrop was involved in Paris's recognition of Local 30 as the representative of Paris's stationary engineering employees at I Park. Additionally, neither Northwell nor Winthrop were parties or signatories to the Paris-Local 30 CBA, nor were they consulted or in any way involved at all with the negotiations leading up to the signing of the Paris-Local 30 CBA (or any previous collective bargaining agreement that may have existed between Local 30 and Paris). In fact, not one of the Paris-Local 30 collective bargaining agreements that Northwell has seen even made any reference to Northwell or Winthrop.

4. The Practice at the Facility Prior to December 2015

Prior to December 2015, when Blackstone still owned Unit 1, Paris and its employees provided engineering maintenance services for the General Common Elements of the Condominium pursuant to the Stationary Engineers Contract. Paris maintained an office for its Local 30-represented stationary engineer employees at the I Park facility site. Moreover, on information and belief, Paris generally assigned and continues to assign one Paris-employed

roofer at the I Park facility site at all times to perform work within the scope of its Roofer Labor Services Contract.

In addition, although not contractually obligated to do so, while Blackstone was the owner of Unit 1 (and as such was the landlord to the numerous commercial tenants to which it leased space within Unit 1), Blackstone offered its Unit 1 tenants the option to call upon Paris-employed personnel represented by Local 30 to perform additional work not mandated under their leases. On occasion, and again, although not contractually obligated to do so, at Blackstone's request, Paris employees (represented by Local 30) would also provide engineering services specifically for tenants of Blackstone in Unit 1. Blackstone was not obligated under its leases with its tenants to offer these services and Blackstone's tenants were free to either request Blackstone to provide personnel for such work or to do the work themselves or to contract with other third parties to do such work. When these types of projects and work were done for tenants through Paris, Paris would invoice Blackstone and Blackstone would bill its tenants for the additional work outside the scope of their leases.

Additionally, if Blackstone or other tenants in Unit 1 made specific requests for work outside the scope of the Stationary Engineers Contract, Winthrop would ask Paris to assign Local 30-represented employees to provide those extra services – even though these extra services also went beyond the scope of the Unit 1 tenants' leases with Blackstone. For example, while Blackstone had no obligation under its leases with Unit 1 tenants to provide general interior maintenance for its tenants, the Unit 1 tenants could ask Winthrop to make arrangements for Paris's Local 30-represented employees to perform those tasks and services. The tenants would be charged for such work in addition to their regular rent obligations.

Importantly, at no time prior to December 2015 did Northwell utilize the services of Paris or its Local 30-represented employees to perform any type of building engineering work (or any other services) for Unit 2, the Condominium unit owned by Northwell. Instead, Northwell used its own employees or other union-represented workers or contractors to perform engineering maintenance services and other similar work in Unit 2.

Indeed, beginning in about November 2014, Northwell contracted with Donnelly to perform HVAC services for its Center for Advance Medicine, a medical facility operated by Northwell, located in Unit 2. (A copy of the Master Services Agreement between Northwell and Donnelly, along with its attachments, is attached as Exhibit H). The Donnelly employees who performed this work were, at all relevant times, represented by Local 638B, Steamfitters ("Local 638B"). Subsequently, Northwell and Donnelly revised their agreement when Northwell requested Donnelly to perform HVAC services for all of Northwell's facilities within Unit 2. This work has at all times relevant to these charges been performed by Donnelly employees pursuant to its collective bargaining agreement with Local 638B.

Northwell never directed, assigned, or exercised any supervisory authority over any of the Paris employees who performed work in the General Common Elements or Unit 1 pursuant to the Stationary Engineers Contract or the Roofing Labor Services Contract.

5. Operational Changes Stemming From Waterstone's Purchase of Unit 1 in December 2015

Waterstone's purchase of Unit 1 from Blackstone in December 2015 led to a number of operational changes at I Park. First, it is Northwell's understanding that following its purchase of Unit 1 Waterstone conducted an overall review of operations and costs. Waterstone concluded that it would be more cost-effective to use unionized service providers on an as-needed basis to perform engineering maintenance services covered by the Stationary Engineers Contract, rather than relying on Paris.

Indeed, one of the facts Waterstone discovered during its review of operations and practices followed during Blackstone's ownership of Unit 1 was that, in reality, when such work needed to be performed, outside vendors – and not Paris-employed personnel – generally were called in to actually perform the work. Moreover, although Paris-employed personnel were present while the third party contractors' employees performed such work, the Paris-employed personnel generally did not do any of the work but were simply present and "observing," frequently outside of their normal work hours, resulting in substantial overtime costs for the owners and no work of value being performed by the Paris-employed personnel.

Accordingly, on June 29, 2016, at what Northwell understands to have been at the direction of Waterstone, Winthrop notified Paris that it was exercising its right to terminate the Stationary Engineers Contract on 30-days' notice. (A copy of Winthrop's notification letter to Paris is attached as Exhibit G). As a result, on June 29, 2016, Paris notified Local 30 that it was terminating the Paris-Local 30 CBA. At no point since June 29th has Local 30 requested that Paris, Winthrop, or Northwell engage in bargaining about the effects and/or impact of Winthrop's cancellation of the Stationary Engineers Contract with Paris. It is however our understanding that Local 30 requested effects bargaining with Paris and that Paris and Local 30 did meet for this purpose.

In addition, as explained above, beginning in December 2015, Waterstone and Northwell entered into a long-term lease arrangement, pursuant to which Waterstone's obligations in many of the Unit 1 tenants' lease agreements were assigned to Northwell, as a result of which Northwell became the sub-landlord for some of the tenants of Unit 1. At the same time Northwell also began to use and occupy some of the space in Unit 1 itself. Northwell's long-term lease agreement with Waterstone provided that Northwell would now be responsible (as a sub-landlord) to maintain the HVAC systems for those Unit 1 tenants with lease agreements requiring the landlord to provide HVAC maintenance and repair. Indeed, most, but not all, of the Unit 1 tenants' lease agreements (which were now assigned to Northwell) required the landlord (or, in this case, the sub-landlord) to maintain and repair the HVAC systems for their Unit 1 leased spaces.

Once it assumed these new roles and obligations, Northwell had to find an HVAC service provider for these Unit 1 tenants, since the Stationary Engineers Contract with Paris had been terminated. Northwell decided it would be most economical to outsource the HVAC functions

for Unit 1 tenants to Donnelly – the vendor that Northwell was already using to provide HVAC services for Unit 2. Thus, Northwell and Donnelly again modified their Master Service Agreement to provide that Donnelly's employees (all of whom are represented by Local 638B, Steamfitters) would now provide preventative HVAC maintenance for most of the Unit 1 tenants in addition to the HVAC services Donnelly was already performing for Unit 2.[8]

Finally, in its new capacity of "sub-landlord" for the Unit 1 tenants, Northwell determined that it did not want to continue Blackstone's practice of allowing the Unit 1 tenants to make arrangements through Winthrop to have Paris's employees perform jobs and tasks outside the scope of the Unit 1 tenants' lease agreements. Accordingly, on August 11, 2016, Winthrop (on behalf of Northwell) notified the Unit 1 tenants that Northwell had decided to discontinue the practice of offering services above and beyond its obligations under their lease agreements. (See Exhibit I). The Unit 1 tenants were given a list of recommended outside vendors that they could contact directly to arrange for the performance of services. At no point since August 11th has Local 30 requested that Paris, Winthrop, or Northwell engage in bargaining about the effects and/or impact of this operational change.

VI. NORTHWELL'S RESPONSE

Northwell denies all of the allegations contained in the Charges in their entirety. Northwell is not and has never been a joint employer with Winthrop, Paris, Donnelly, or any other entity with respect to either the persons formerly employed by Paris at the properties located at 1111 Marcus Avenue or any other persons who are now or were previously employed at that location. Notably, the Union has not alleged any facts whatsoever in the Charges to support its conclusory allegation of joint employer and successorship.

At all times the workers represented by Local 30 who worked at I Park were employees of Paris and only Paris. Local 30 acknowledged this fact in its collective bargaining agreement with Paris, which provided that in the event that Paris's engagement to perform services at the property were to conclude, neither Paris nor any other employer would have any further obligations to the Union or the employees it represented at that site. Notably, neither Northwell, Winthrop, Blackstone nor Waterstone was ever a signatory to or bound by the Paris-Local 30 CBA. Notwithstanding the Union's assertions in the Charges, neither Northwell nor any other respondent other than Paris ever had any obligation to recognize, meet with, or bargain with the Union as a representative of any persons who were ever employed by any entity at the I Park facility.

As explained in more detail above, Winthrop and Paris entered into an agreement that Paris would provide stationary engineering and related services at I Park using Paris's own Local

[8] While most of the Unit 1 tenants' lease agreements assigned to Northwell require it, as "sub-landlord," to maintain their HVAC systems, not all of the assigned Unit 1 tenants' lease agreements contain that requirement. Those Unit 1 tenants who bear the responsibility to maintain and service their own HVAC systems have either chosen to hire Donnelly directly or have chosen to contract with another HVAC service provider.

30-represented workers. Winthrop ultimately terminated that agreement with Paris because of fundamental changes in operations and staffing requirements at I Park. Winthrop's decision to terminate its agreement with Paris was neither based upon nor otherwise related to the fact that the Paris employees were represented by Local 30 or covered by the Paris-Local 30 CBA or a desire to have the work done on a non-union basis. To the contrary, the work is now done by Donnelly's Local 638B represented employees, under an expansion of Donnelly's engagement with Northwell that began in 2014, well beyond the Section 10(b) limitations period.

Moreover, neither Northwell, Winthrop, Donnelly nor any other entity is a successor to Paris in these circumstances. Northwell, Winthrop, and Donnelly had no obligation to consider any of the persons formerly employed by Paris at I Park for employment and, to the best of Northwell's knowledge, none of the Paris employees who formerly worked at I Park ever applied for employment with Northwell. In fact, based on our understanding of common practice in the building services industry, in all likelihood these persons are all still employed by Paris at other properties where it has contracts to provide the type of services that it previously provided under the Stationary Engineers Contract.

To the extent that the Charges allege an unlawful refusal to process grievances brought by Local 30, Northwell responds that it is not aware of any such grievances. Moreover, it was neither a party to nor otherwise bound by any collective bargaining agreement between Local 30 and Paris, and at no time did Local 30 ever assert in any of its dealings with Northwell and Winthrop that either entity was bound by its contract with Paris, or that the Union believed that they had an obligation to process grievances under Local 30's contract or any other agreement.

While the Union alleges that Northwell unlawfully refused to bargain with it over the impact or effects of the decisions to discontinue the Stationary Engineers Contract (an allegation made notwithstanding the fact that Northwell was neither an employer nor a joint employer with respect to any persons employed by Paris at I Park or elsewhere), the fact remains that Local 30 never requested to meet or bargain with Northwell over such matters and, to Northwell's understanding, the Union never made such a request to either Winthrop or Waterstone. Accordingly, there is no basis in fact or law for finding that Northwell violated the Act in this or any other manner alleged in the Charges.

A. Specific Questions Posed in The First EAJA Letter

In the First EAJA letter, you posed three specific questions for Northwell to answer. We hereby respond as follows:

1. Why did Northwell Health, Inc., and/or Winthrop Management, and/or Paris Maintenance lose its contract with I-Park Condominium?

Response: As described above, when Waterstone purchased Unit 1 from Blackstone in December 2015, it decided to implement a number of operational changes. One such change was to begin outsourcing the functions covered by the Stationary Engineers Contract to another outside vendor(s) so that those tasks could be completed on an as-needed basis – rather than

paying for Paris employees to be stationed on site at the facility at all times and observe the work of outside vendors who actually performed the work. When Waterstone communicated this decision to Winthrop, Winthrop terminated the Stationary Engineers Contract that it had entered into (on behalf of the Condominium Board) with Paris. At no time did Northwell have a contract with Paris regarding engineering services that Paris's Local 30-represented employees did on the General Common Elements or at Unit 1. Moreover, Paris-employed personnel never performed any work at Unit 2 (the minority portion of the Condominium owned by Northwell).

2. Who currently provides the maintenance services at I-Park that were previously performed by Local 30 bargaining unit employees? When did the current maintenance service begin providing such services?

Response: As described above, as early as November 2014, Northwell contracted with Donnelly to perform HVAC services for its Center for Advance Medicine, located in Unit 2 and subsequently expanded that agreement to have Donnelly provide HVAC services for all of Unit 2. After it became the "sub-landlord" of the Unit 1 tenants, and after Northwell became contractually obligated to maintain the HVAC systems for most of the Unit 1 tenants, Northwell and Donnelly agreed to further expand the scope of their existing Master Service Agreement. Thus, as of July 1, 2016, Donnelly employees (who are represented by Local 638B Steamfitters) currently perform the HVAC services for Unit 1 that were originally covered in the scope of work in the Stationary Engineers Contract.

In addition, as noted above, in approximately August 2016, Northwell – as the new sub-landlord of Unit 1 discontinued Blackstone's practice of allowing Unit 1 tenants to arrange (via Winthrop) for Paris employees to perform services that went beyond the scope of the tenants' lease agreements. Northwell informed all Unit 1 tenants that they should reach out directly to the vendors of their choice to contract for the provisions of these services. Of course, Northwell had never maintained any similar practice of utilizing Paris-employed personnel to perform such services at Unit 2.

3. If maintenance services are currently being performed by Northwell's employees, how were they hired?

Response: As noted above, Paris-employed personnel never performed any type of work or services for Unit 2 of the I Park facility. To the extent Northwell relies upon persons that it employs to perform any building service or support functions of a type performed by Paris employees on the General Common Elements and at Unit 1 of the I Park facility, Northwell relies upon its existing and extensive facilities workforce. No new personnel were hired for the support of I Park.

B. Response to Specific Allegations in Both EAJA Letters

We respond as follows on behalf of Northwell to the allegations summarized in the First and Second EAJA Letters.

1. Northwell is Not, And Was Never, a Joint Employer With Winthrop and/or Paris (See First EAJA Letter, pg. 1) and/or Donnelly, And Had No Successor Obligation to Paris's Employees (*See* Second EAJA Letter, pg. 1)

Based upon the facts as summarized above, it is clear that, under the Board's standard as enunciated in *Browning-Ferris Industries of California, Inc. ("BFI"),* 362 NLRB No. 186 (2015), Northwell has never been a joint employer with Paris, Winthrop, Blackstone, Waterstone and/or Donnelly, nor has it ever been a successor to Paris or any other entity with respect to its presence at I Park, including its ownership and use of Unit 2 of the Condominium, its tenancy in Unit 1, and/or its status as the sub-landlord of Waterstone's tenants at Unit 1.

Under *BFI*, two or more entities will be considered joint employers of a single work force if: (1) they have a common-law employment relationship with the employees in question; and (2) each putative joint employer possesses sufficient control over employees' essential terms and conditions of employment to permit meaningful collective bargaining. *BFI*, 362 NLRB No. 186, at slip op. 2.

Northwell was originally a simple commercial tenant in Unit 2 of the I Park complex, both before and after its conversion to a commercial condominium by the real estate development firm that was initially Northwell's landlord at I Park. Even after Northwell's purchase of Unit 2, Northwell neither operated nor directed the operations of I Park as a whole. Rather, the Condominium remains under the management of the three (3) member Condominium Board, to which Northwell appoints but a single member. The other two (2) members of the Condominium Board are appointed by and represent Waterstone, which is the owner of Unit 1 and will continue as such until 2045 under the terms of Northwell's lease for Unit 1. It is significant – and, indeed, we believe determinative – that Region 29 has already concluded and Local 30 has acknowledged that Waterstone is not and was not a joint employer with either Northwell, Winthrop, Paris, or Donnelly with respect to any actions or decisions relating to the allegations of these Charges. Simply put, if Waterstone, which controls and appoints two-thirds of the Condominium Board (which acts by simple majority vote according to the Condominium's Bylaws) is not alleged by Local 30 to have been a joint employer with Paris and the Board already reached the conclusion in this investigation that the evidence cannot establish that Waterstone was a joint employer of the Paris employees working at the I Park site, then Northwell (which designates only one of the three Condominium Board members) cannot possibly be found to have been a joint employer.

Moreover, it is also clear that even if the above-described ownership and corporate governance structure is not considered, Northwell, Winthrop, and Donnelly were never joint employers with Paris of the Paris employees who worked at I Park. In all instances, Paris alone made all hiring and other employment-related decisions with respect to the personnel Paris assigned to work at I Park. Neither Northwell nor Winthrop participated in any contract or other negotiations between Paris and Local 30. Paris alone bargained for the wages, benefits, and other working conditions set forth in its collective bargaining agreements with Local 30.

Moreover, Paris alone supervised and directed the work of the Paris personnel, evaluated their work, and set their work schedules. Notably, the agreements between Paris and Winthrop are evidence of the fact that neither Winthrop nor the Condominium had any influence over or ability to establish or control the wages, benefits and other terms and conditions of the Paris employees who worked at I Park.

Work under the Stationary Engineers Contract was at all times performed by Paris employees who worked under the direction and supervision of a Paris supervisor. At all times prior to the termination of Paris's retention to provide services, Paris's own site manager and/or foremen were present, overseeing and directing the Paris employees at all times. To the extent that Northwell or Waterstone (or Blackstone before it) or their Managing Agent Winthrop wished to convey these instructions and assignments, they communicated them to Paris's management, which was their point of contact with Paris employees at I Park. Paris's management would then in turn convey instructions and assignments to the Paris supervisors who actually directed and oversaw the work of Paris's Local 30-represented rank and file workers at the I Park worksite.

Neither Northwell, Winthrop, nor Donnelly participated in any manner or oversaw any aspect of Paris's recruitment for and staffing of its work at I Park. Northwell, Winthrop, and Donnelly never interviewed, selected, or set terms and conditions for any of the Paris employees' positions at I Park. Additionally, neither Northwell, Winthrop, Donnelly, nor anyone acting as their agents or vendors ran any advertisements or engaged or communicated with any placement or recruiting agencies in connection with Paris's recruitment and retention of its workforce for its work at I Park.

Paris alone provided compensation and benefits to its employees at I Park. Northwell, Winthrop, and Donnelly were not involved in any decisions with respect to changes in compensation or benefits for the Paris employees. Accordingly it is clear that neither Northwell, Winthrop, nor Donnelly was at any time a joint employer with Paris, and that none of these entities violated the Act as alleged in the Charges, or in any other manner.

2. Northwell Had No Obligation to Bargain Collectively With Local 30 (*See* First EAJA Letter, pg. 1), And Northwell Did Not Fail to Hire or Consider Any Local 30 Employees in Order to Avoid a Collective Bargaining Obligation (*See* Second EAJA Letter, pg. 1).

At no time has Northwell ever had any obligation to recognize or bargain with Local 30 or to fulfill any obligations that Paris had or may have had under its collective bargaining agreement with Local 30, including but not limited to any obligation to process grievances arising under the Paris-Local 30 CBA or to interview, hire or consider for employment any persons that Paris formerly employed at I Park.

As far as Northwell is aware, not a single Paris employee has sought employment with Northwell (or Winthrop or Donnelly, for that matter) in any capacity during the relevant time period. Moreover, as explained above, at no point has Local 30 ever contacted Northwell to

even attempt to engage in impact/effects bargaining following its December 2015 operational changes. Finally, Northwell was not aware prior to receiving the Third Charge that the Union had filed any grievance of any kind pursuant to its collective bargaining agreement with Paris, and it was never notified that the Union may have expected it to consider any such grievance.

At no time did Northwell, Winthrop, or Donnelly have a common law employment relationship with the workforce employed by Paris in connection with its engagement to perform certain services at I Park, and Northwell, Winthrop, and Donnelly never possessed sufficient control over the Paris employees' terms and conditions of employment to permit meaningful collective bargaining. Notably, at no time during the multi-year period that Paris was retained to perform and provide the services in question did Local 30 *ever* seek the participation of any of the owners of Unit 1 or Unit 2, the Condominium Board, or Winthrop in its negotiations with Paris. Moreover, at no point prior to the filing of the Charges did Local 30 *ever* contend that Northwell, Waterstone (or Blackstone before it), or Winthrop was a joint-employer with Paris.

Notably, the work that Paris and its employees performed at I Park is not a part of or in any way related to Northwell's operation of a system for the delivery of healthcare and medical and related services to its patients. The Paris workforce at all times worked under the direction and supervision of the Paris's own building services and maintenance management. These Paris employees had a separate and distinct set of skills from the Northwell workforce. Paris alone established the terms and conditions of employment of all persons that it employed in connection with its engagement to perform services at I Park, and Paris alone provided its employees with their wages and benefits, evaluated their performance and directed their day to day work.

Overall, Northwell did not have any obligation to bargain collectively with Local 30, and it did not fail or refuse to hire or consider Local 30 employees in an effort to avoid a collective bargaining obligation.

C. Section 10(j) Injunctive Relief Is Not Appropriate

Both the First and Second EAJA Letters requested Northwell's position concerning the appropriateness of Section 10(j) injunctive relief in this matter. It is clear, based on the facts and the law that it would not be appropriate for the General Counsel to seek such relief on behalf of the Board in these cases.

Temporary injunctive relief pursuant to Section 10(j) of the Act is not warranted here because: (1) Northwell's actions were, at all times, lawful; (2) Northwell's actions do not threaten to disrupt the status quo or in any way undermine the Union's support; and (3) the Union has not suffered (and is not in danger of suffering) an irreparable injury.

Notably, the evidence and the law as summarized above clearly demonstrate that neither Northwell, Winthrop, nor Donnelly is or ever has been a joint employer with respect to the Local 30-represented employees of Paris who worked at I Park until late June 2016. This fact, when viewed together with the fact that Local 30 never sought to bargain with any of these entities, never asked any of them to process a grievance, make any payment, or take any action under its

collective bargaining agreement with Paris, demonstrates that it would be illogical and an abuse of the Board's discretion for it to consider any efforts to pursue injunctive relief. Moreover, the Union cannot show that it is in any danger of suffering an irreparable injury.

Indeed, the Union waited months after it learned (on June 29, 2016) that the Stationary Engineers Contract had been terminated before it filed even the first of the Charges. It then apparently waited additional months before it presented its evidence to the Region. Under these circumstances, it is clear that it would be inappropriate for the Board to pursue injunctive relief.

In fact, the Union originally raised some or all of the allegations now presented by the Board in an earlier charge, in Case No. 29-CA-180008, which was filed against Winthrop, Northwell and Waterstone on July 28, 2016. By letter dated September 14, 2016, the Regional Director approved the withdrawal of that Charge. It is clear that the fact that the Union then waited months before bringing any of these matters back to the Board demonstrates that there was no sense of urgency from the Charging Party's perspective and that the extraordinary relief provided for in Section 10(j) was neither necessary nor appropriate in these cases.

VII. DOCUMENT REQUESTS

A. The First EAJA Letter

The First EAJA Letter requests that Northwell provide the Board with copies of the following categories of documents:

1. The official job title and job description explaining the positions held by

- Partner Charles Loiodice
- Partner Thomas Parissidi
- Representative George Mullen
- President Peter Braverman
- Manager Tony Tiberias
- Property Manager Joe Rupolo
- Accountant Kallbinder

2. The most recent service contract(s) between Paris Maintenance and/or Winthrop Management, and/or Northwell Health, Inc. for those services at I-Park performed by Local 30 bargaining unit employees, in effect from January 1, 2013 to the present.

3. The service contract, by and between Paris Maintenance and/or Winthrop Management, and/or Northwell Health, Inc. and IPARK Condominium, currently in effect, if any, for those services at I-Park previously performed by Local 30 bargaining unit employees.

4. All contracts by and between Paris Maintenance and/or Winthrop Management, and/or Northwell Health, Inc., concerning those services at IPARK Condominium (1111 Marcus

Avenue building) previously performed by Local 30 bargaining unit employees, in effect from January 1, 2013 to the present.

5. All correspondence between Northwell and Winthrop discussing performance of work by Paris Maintenance or discussing the contract between Winthrop and Paris Maintenance, including but not limited to discussion of the contract's length, terms, or conditions.

6. Correspondence by and between Charles Loiodice, Thomas Parissidi, Joe Rupolo, George Mullen, Toni Tiberias, Peter Braverman, Kallbinder or any other the (sic) directors, officers, representatives, or agents of Northwell Health, Inc. concerning, discussing, directing, or requesting employees represented by Local 30 to perform work of any kind, from January 1, 2016 to the present.

7. Records showing out of pocket reimbursements received by Local 30 members for tools and other out of pocket expenses they incurred, from January 1, 2016 to the present.

8. Payroll records for Local 30 employees working at I-Park Condominium on behalf of Paris Maintenance and/or Winthrop Management and/or Northwell Health, Inc., from April 1, 2016 to the present.

9. Any notice of other written correspondence by and between officials, shop stewards or employees of Local 30 and the directors, officers, representatives, or agents of Northwell Health, Inc. regarding

- The Employers' loss of its contract with I-Park
- The Employers' layoff of Local 30 employees on or about June 29, 2016
- Local 30's request to discuss the layoff and/or hire of its represented employees at I-Park.

10. Any notice or other written correspondence by and between the directors, officers, representatives, or agents of Northwell Health, Inc., and/or Winthrop Management, and/or Paris Maintenance and I-Park Condominium regarding the loss of contract with I-Park.

B. Objection and Response

Northwell objects to these document requests as unreasonably vague and ambiguous, overbroad and unduly burdensome, and seeking information outside the scope of the issues raised in the Charges. Additionally Northwell responds that many of the documents requested, including but not limited to payroll records concerning Paris's employees who formerly worked at I Park, are not in the custody, possession or control of Northwell, Winthrop, or the Condominium Board. Because these persons were employed exclusively by Paris, neither Northwell nor these other entities have or would have any reason to have access to such

information and records. Notwithstanding its objections to the scope of the request, Northwell will produce the following documents:

- Copies of: (1) Declaration of Condominium Establishing 1111 Marcus Avenue Condominium, dated June 16, 2006, which includes the By-Laws of 1111 Marcus Avenue Condominium at Schedule D; (2) First Amendment to the Declaration of Condominium of 1111 Marcus Avenue Condominium, dated September 24, 2013; (3) Amendment to Declaration and the Bylaws of Condominium of 1111 Marcus Avenue Condominium, dated June 20, 2014, and (4) Third Amendment to Declaration of Condominium of 1111 Marcus Avenue Condominium, dated March 26, 2015, which are attached as Exhibit A.

- A copy of the March 2015 "Management Contract" between the Condominium (acting through its Board) and Winthrop, which is attached as Exhibit B.

- A copy of the April 26, 2016 "Stationary Engineers Contract" between the Condominium and Paris is attached, which is as Exhibit C.

- A copy of the service agreement between Winthrop (acting on behalf of the Condominium) and Paris for the period beginning on May 1, 2014 and expiring on April 30, 2016, which is attached as Exhibit D.

- A copy of the October 1, 2015 "Roofer Labor Services Contract" between Winthrop (on behalf of the Condominium) and Paris, which is attached as Exhibit E.

- A copy of Winthrop's June 29, 2016 letter notifying Paris that it would exercise its right to terminate the Stationary Engineers Contract on 30 days' notice, which is attached as Exhibit G.

- A copy of Winthrop's August 11, 2016 email to Unit 1 tenants notifying them of Northwell's decision to discontinue the practice of offering services above and beyond its obligations under their lease agreements, which is attached as Exhibit I.

- A copy of the job description for Northwell's "Director, Property Management" position, which is currently held by Joseph Rupolo, which is attached as Exhibit J.

C. <u>The Second EAJA Letter</u>

The Second EAJA Letter requests that Northwell provide the Board with copies of the following categories of documents:

1. The official job title and job description explaining the positions held by

- Principal Catherine Donnelly
- Representative George Mullen
- President Peter Braverman
- Manager Tony Tiberias
- Property Manager Joe Rupolo
- Accountant Kallbinder

2. The most recent service contract(s) by and between Donnelly Mechanical Corp. and/or Winthrop Management, and/or Northwell Health, Inc. for services Donnelly Mechanical Corp. performs at I-Park Condominium, located at 1111 Marcus Avenue, New Hyde Park, New York.

3. Any notice of award of contract provided to Donnelly Mechanical Corp. regarding Donnelly Mechanical Corp.'s service contract to preform services at I-Park, as described above in paragraph 2.

4. All job postings, news advertisements and/or requests for applicants [that] Northwell Health, Inc. published to obtain employees to perform work at I-Park Condominium that was for those services at I-Park Condominium previously performed by Local 30 bargaining unit employees.

5. All applications received by Northwell Health, Inc. from applicants interested in performing the work at I-Park Condominium that was previously performed by Local 30 bargaining unit employees.

6. A list of the names, addresses, and telephone numbers of all employees at Northwell Health, Inc. who work at I-Park Condominium under a service contract described above in paragraph 2.

D. Objection and Response:

Northwell objects to these document requests as unreasonably vague and ambiguous, overbroad and unduly burdensome, and seeking information outside the scope of the issues raised in the Charges. Notwithstanding its objections to the scope of the request, Northwell will produce the following documents:

- Copies of the Master Services Agreement between Northwell and Donnelly, dated November 10, 2014, as well as its attachments, are attached as Exhibit H.

* * *

Based on the above, it is clear that the Charges are not supported by the facts or the law and that Northwell did not violate the Act as alleged in any of the Charges.

Accordingly, we respectfully request that the Regional Director dismiss the First Charge, First Amended Charge, Second Charge, and Third Charge in their entirety.

Very truly yours,

Steven M. Swirsky

SMS:sgw

cc: Northwell Health
Winthrop Management Inc.
as Managing Agent for I Park Condominium

Exhibit A

R E C E I P T
Printed:08-28-2006 @ 15:42:25
NASSAU COUNTY
MAUREEN O'CONNELL
COUNTY CLERK

Trans#: 295493 Oper:MEM001

Ref#: MA CA 000222
Ctl#: 1949 Rec:8-28-2006 @ 3:41:39p

DOC	DESCRIPTION	TRANS AMT
	1 1111 MARCUS AVENUE CONDOMINIUM	
MAP		10.00
Flat rate 10.00		10.00
Blocks @ 10.00		10.00
map fees		
	Total fees:	30.00
	*** Total charges:	30.00
	CHECK PM 9152	30.00

R E C E I P T
Printed:08-28-2006 @ 15:54:42
NASSAU COUNTY
MAUREEN O'CONNELL
COUNTY CLERK

Trans#: 295528 Oper:LLS001
MINERVA & DAGOSTINO PC

Book: D 12164 Page: 515
Ctl#: 1984 Rec:8-28-2006 @ 3:53:22p

DOC	DESCRIPTION	TRANS AMT
	1 1111 MACUS AVENEUE CONDOMINIUM	
DECLARATION RESTRICTIONS		
Page 1 @ 8.00, 3.00		362.00
Blocks @ 10.00		10.00
Flat rate 4.75		4.75
Flat rate .25		.25
CULTURAL EDUCATION		14.25
CULTURAL ED COUNTY		.75
	Total fees:	392.00

Ctl#: 1985 Rec:8-28-2006 @ 3:53:22p

DOC	DESCRIPTION	TRANS AMT
CERTIFICATION		
certify prepared cop		77.35
	*** Total charges:	469.35
	CHECK PM 9175	469.35

NASSAU COUNTY CLERK'S OFFICE
ENDORSEMENT COVER PAGE

Recorded Date: 08-28-2006
Recorded Time: 3:53:22 p

Liber Book: D 12164
Pages From: 515
To: 633

Record and Return To:
WILLKIE FARR & GALLAGHER LLP
787 SEVENTH AVE
ATTN STEVEN D KLEIN ESQ
NEW YORK, NY 10019

Control Number: 1984
Ref #:
Doc Type: D03 DECLARATION RESTRICTIONS

Location:	Section	Block	Lot	Unit
N. HEMPSTEAD (2822)	0008	0000B-18	0300H	0MSTR
N. HEMPSTEAD (2822)	0008	0000B-18	0300L	0MSTR

Taxes Total	.00
Recording Totals	392.00
Total Payment	392.00

LLS001

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVED
MAUREEN O'CONNELL
COUNTY CLERK

200608280l984

DECLARATION OF CONDOMINIUM

ESTABLISHING

1111 MARCUS AVENUE CONDOMINIUM

1111 Marcus Avenue
LAKE SUCCESS, NEW YORK

DECLARANT: i. Park Lake Success, LLC

DATE: June 16, 2006

RECORDING INFORMATION:

Section: 8
Block: B-18
Lots: 300H Units 1 and 2
300L Units 1 and 2
County: Nassau
State: New York

RECORD AND RETURN TO:

WILLKIE FARR & GALLAGHER, LLP
787 Seventh Avenue
New York, New York 10019
Attn: Steven D. Klein, Esq.

Table of Contents

Schedules

DECLARATION OF CONDOMINIUM

1111 MARCUS AVENUE CONDOMINIUM

ARTICLE 1

INTRODUCTORY PROVISIONS

Section 1.1 Creation of the Condominium.

I.PARK LAKE SUCCESS, LLC., a Delaware limited liability company with an address at 485 West Putnam Avenue, Greenwich, Connecticut 06830, hereby submits the land more particularly described on Schedule A attached hereto and made a part hereof; together with the Buildings and improvements thereon erected (the "Buildings") owned in fee simple absolute (the land and the Buildings are hereafter referred to as the "Property") to the provisions of the Condominium Act (defined below). The name of the condominium project is "1111 Marcus Avenue Condominium."

Section 1.2 Area and Location of Land.

The Land is located at 1111 Marcus Avenue in the County of Nassau and the State of New York.

Section 1.3 Description of Buildings.

As of the date of initial recordation of this Declaration, the Buildings erected on the Land are generally of two-storey steel structure with masonry, metal and glass façade, built on concrete slab with a steel deck built-up roof and silicone system, with the roofs being constructed with high and low bays with glass block on each vertical face of the high bays.

Section 1.4 Definitions.

Unless otherwise defined in this Declaration of Condominium or in the By-laws of the Condominium annexed hereto as Schedule D (said Declaration and By-laws are occasionally hereinafter referred to collectively as the "Condominium Instruments"), all capitalized terms in the Condominium Instruments shall have the meanings specified for said terms in the Condominium Act.

(a) "Area" shall mean either the Unit 1 Area or the Unit 2 Area.

(b) "Board of Managers" or "Board" or "Condominium Board" means the Board of Managers of the Condominium. The composition of the Board is described in the By-laws.

(c) "Buildings" means the Buildings (with one of the Buildings being a "Building") erected on the Land as described above and all alterations and replacements hereinafter made to such Buildings in accordance with this Declaration and the By-laws. The Buildings are sometimes referred to by names that are set forth on the Floor Plans.

(d) "By-laws" means the By-laws of the Condominium, which By-laws are annexed to this Declaration as Schedule D, as such By-laws may be amended from time to time.

(e) "Recording Office" means the Office of the Clerk of Nassau County.

(f) "Common Charges" means the assessments payable by Unit Owners in monthly installments or otherwise, as established by the By-laws for the purpose of meeting Common Expenses; special assessments will be characterized and treated as Common Charges of the Unit Owner to whom assessed, all as more fully described in Article 5 of the By-laws.

(g) "Common Elements" means those facilities and areas of the Condominium that are not part of a Unit and which are necessary or convenient to the existence, management, operation, maintenance and/or safety of the Property, or normally in common use, and which Common Elements shall be classified as General or Limited, as more fully described in Article 4 of this Declaration.

(h) "Common Expenses" means all costs and expenses in connection with repair, maintenance, replacement, restoration, operation of, and alteration, addition or improvement to, the Common Elements.

(i) "Common Interest" (also referred to occasionally as "percentage of interest in the Common Elements") means the proportionate undivided interest in fee simple absolute in the Common Elements allocated and appurtenant to a Unit, as set forth in this Declaration. Said interest is expressed as a numerical percentage. The total of all Common Interest percentages appertaining to all Units equals 100%.

(j) "Common Surplus" means the excess of all Common Charges over all Common Expenses.

(k) "Condominium" means the Units and Common Elements comprising the Property, to wit, the 1111 Marcus Avenue Condominium. The terms "Condominium" and "Property" are used interchangeably.

(l) "Condominium Act" means Article 9-B of the New York State Real Property Law.

(m) "Declaration" means this Declaration of Condominium, and a reference to the provisions thereof shall be deemed to include the provisions of all Exhibits and Schedules thereto, including, without limitation, the provisions of the By-laws.

(n) "Facility" means, but is not limited to, the following items (grouped more or less functionally) which are set forth only for the purpose of illustrating the broad scope of that term: structural columns, system, equipment, apparatus, convector, radiator, heat exchanger, mechanism, device, machinery, induction unit, fan coil unit, motor, pump, control, tank or tank assembly, installation, condenser, compressor, fan, damper, blower, thermostat, thermometer, coil, vent, sensor, shut-off valve or other valve, gong, panel, receptacle, outlet, relay, alarm, sprinkler head, electric distribution facility, wiring, wireway, switch, switchboard, circuit breaker, transformer, fitting, siamese connection, hose, plumbing fixture, lighting fixture, other fixture,

bulb, sign, telephone, meter, meter assembly, scaffolding, piping, line, duct, conduit, cable, riser, main, shaft, pit, flue, lock or other hardware, rack, screen, strainer, trap, drain, catch basin, leader, filter, incinerator, canopy, closet, cabinet, door, railing, coping, step, furniture, mirror, furnishing, appurtenance, urn, basket, mail box, carpeting, tile or other floor covering, drapery, shade or other window covering, wallpaper or other wall covering, tree, shrubbery, flower or other planting and horticulture or planting tub or box. The general location of a facility where it is installed is a "facility area."

(o) "Floor Plans" means the approved condominium floor plans of the Buildings filed simultaneously with the recording of this Declaration, as more fully described in Article 2 of this Declaration.

(p) "General Common Elements" means those portions of the Property other than the Units and other types of Common Elements, as described in detail in Article 4 of this Declaration.

(q) "LIJ Lease" means that certain Amended and Restated Lease dated as of March 22, 2005 between i. Park Lake Success, LLC, as Landlord, and North Shore-Long Island Jewish Health System, Inc. ("the Tenant under the LIJ Lease"), as Tenant, as same may be amended from time to time. References to the acquisition of title to a Unit by the Tenant under the LIJ Lease shall be deemed to refer to the Tenant under the LIJ Lease's acquisition of title to the Unit and/or to acquisition of the ownership interests in an entity that owns a Unit and to acquisition of such Unit or such ownership interests by an affiliate of the Tenant under the LIJ Lease.

(r) "Limited Common Elements" means those Common Elements which are for the use of one specified Unit to the exclusion of the other Unit, as more fully described in Article 4 of this Declaration. As of the date of recordation of this Declaration the Limited Common Elements are the "Unit 1 Limited Common Elements" and the "Unit 2 Limited Common Elements," as described in this Declaration or as shown on the Floor Plans (and in the event of any discrepancy between the two as to the location of Limited Common Elements, the terms of the Floor Plans shall prevail).

(s) "Mortgagee" means any lender holding a deed of trust or mortgage of record encumbering a Unit. A Mortgagee shall be deemed to be a "Permitted Mortgagee" if it satisfies the criteria therefor contained in Article 8 of the By-laws.

(t) "Rules and Regulations" means the rules and regulations adopted by the Board of Managers pertaining to the use of the General Common Elements.

(u) "Unit" means any space in the Buildings intended for independent use or ownership and designated as a Unit in this Declaration and the Floor Plans, as same may be amended from time to time, together with such Unit's appurtenant undivided percentage of interest in the Common Elements. Any two or more Units are collectively referred to as "Units." All Units existing as of the date hereof are listed on Schedule B annexed hereto.

(v) "Unit 1 Area" shall mean Unit 1 and the Unit 1 Limited Common Elements.

(w) "Unit 2 Area" shall mean Unit 2 and the Unit 2 Limited Common Elements.

(x) "Unit Owner" or "Owner" means any owner of a Unit in fee simple absolute.

Section 1.5 Schedules.

All Schedules referred to in this Declaration are incorporated into this Declaration as integral parts hereof.

ARTICLE 2

UNITS

Section 2.1 Schedule of Information.

Annexed hereto and made a part hereof as Schedule B is a list of all Units in the Buildings, which list also contains Unit designations, percentage of interest in the Common Elements, approximate area and Common Elements to which each Unit has access.

Section 2.2 Floor Plans.

The approximate dimensions, area and location of each Unit in the Condominium are as shown graphically on the floor plans certified pursuant to Real Property Law § 339-p by Michael R. Brandt of TPG Architecture, LLP, an architect licensed in New York (the "Floor Plans"). A reduced set of the Floor Plans is annexed to this Declaration as Schedule C.

Section 2.3 Unit Boundaries and Components.

(a) Boundaries of Units. Each Unit contains the space within the area bounded and described as follows (and, except as explicitly set forth otherwise in the Condominium Instruments, the Unit shall be deemed to include all facilities, systems and components located therein):

> Horizontally from the interior face of the exterior walls of the Building adjacent to a portion of the Unit (or from the exterior of the glass forming a part of the Unit) to the interior face of the opposite exterior walls of the Building, or to the center of the drywall partitions separating the Unit from any other Unit or from any Common Elements; and vertically from the top of the concrete floor slab in each of the lowest portions of the Unit up to the underside of the roof of the Building which is adjacent to the Unit. For the purposes of measurements set forth in the Schedules to this Declaration, columns, mechanical pipes, shafts, shaftways, chases, chaseways and conduits are not deducted, and Limited Common Elements are included.

(b) Components of Units. Doors directly accessing a Unit from a Common Element or from the outdoors are part of the Unit unless otherwise specified in this Declaration. The heating, ventilating and air conditioning equipment and sprinkler heads exclusively servicing the Unit are part of the Unit, as are any pipes, ducts, wires, flues, conduits or similar facilities connecting such equipment to the Unit if they service the Unit exclusively, regardless of where located. Electric service lines originating at the meter measuring consumption of electricity in the Unit and branch water lines servicing the Unit exclusively, are also part of the Unit, regardless of

where located. In general, any facility or facility area located within a Unit and serving only that Unit, is part of that Unit and is not a Common Element, and any facility or facility area located outside of a Unit and serving only that Unit, is part of that Unit and not a Common Element, regardless of where located. Access, however, to facilities and facility areas that are part of a Unit and located outside of the Unit, is not absolute, and must be exercised by the affected Unit Owner in a manner that will not unreasonably interfere with the use and operation of the Unit or Common Element in which the facility or facility area is located, as more fully described elsewhere in this Declaration and in the By-laws. The Units shall consist of all portions of the Buildings, structural or non-structural, otherwise located within the Units except for portions of the Buildings or facilities that are otherwise explicitly in the Condominium Instruments described as portions of the other Unit, a General Common Element or a Limited Common Element.

Section 2.4 Use of Units and Common Elements Therein.

(a) Each Unit may be used for any legal use conforming with applicable zoning restrictions, Buildings codes, other laws and regulations and the certificate of occupancy for the Unit and/or the Buildings subject to restrictions set forth in this Declaration, which are supplemented by the provisions of Article 7 of the By-laws. Notwithstanding any provisions of the Condominium Instruments to the contrary, a Unit Owner shall have no obligation to the Board or another Unit Owner or any tenants of any other Unit or any other person, and neither the Board nor any Unit Owner nor tenant or any other person may bring any action or proceeding or seek damages or equitable relief or make complaint about, the operation of a Unit or any of its facilities or equipment, including without limitation with respect to sound, appearance, vibration, smoke or odor or any other incidence of operation of the Unit Owner's Unit or the Limited Common Elements appurtenant thereto, to the extent that the Unit Owner's Area is operated in accordance with law.

(b) Notwithstanding any provisions of this Declaration to the contrary, except still subject to the Schedule E Provisions relating to permissible uses, no more than ten percent of the rentable square footage ("Allowed Retail Space") of either Unit (and if divided, then of all such Units that originally comprised the Unit on the date of creation of the Condominium) or of the General Common Elements (such test to be taken as to each Unit and the General Common Elements separately, not cumulatively) may be used for retail purposes; however, Allowed Retail Space shall not be deemed to include portions of the Property used for food or newsstands and the like that exclusively service the commercial population at the Property. The provisions of this Section 2.4(b) may only be amended with the prior written consent of both Unit Owners.

Section 2.5 Division or Combination of Units.

(a) Unit Owners shall have the right to divide or combine their Units only in accordance with this Section 2.5. Unit Owners performing physical divisions or combinations of Units shall also be subject to the requirements of the Condominium Instruments governing alterations generally.

(b) If a Unit is divided into two or more smaller Units, the new Units created thereby shall have allocated among them in the aggregate, based on provisions of the Condominium Act referenced in Section 3.2 of this Declaration, the Common Interest previously allocated to the

Unit that was divided. If two or more Units are combined into one or more Units, the newly created Unit(s) shall have allocated to it (among them), in the aggregate, the Common Interest previously allocated to the Units that were combined, and the Limited Common Elements appurtenant to the Unit shall be reallocated as well.

(c) (i) Any division or combination of a Unit shall require the prior written consent of the Condominium Board, not to be unreasonably withheld or delayed. A Unit Owner seeking to divide its Unit (and the appurtenant Limited Common Elements) shall (w) notify the Board in writing at least thirty (30) days in advance of the intended division or combination, (x) provide copies of the preliminary plans and specifications for the division or combination prepared by an architect licensed to do business in the State of New York, (y) provide a draft of the proposed associated amendment to this Declaration, and (z) comply with all requirements set forth in this Declaration pertaining to the division and alteration of Units generally.

(ii) In accordance with the foregoing, the Condominium Board, as applicable, shall be obligated to act on a Unit Owner's request for approval within thirty (30) days receipt from the Unit Owner of adequate information and material required in order to be able to evaluate the request thoroughly. The Condominium Board shall have the right to impose such additional reasonable requirements as it deems appropriate. The 30-day period within which to act, shall not begin to run until receipt of a complete application from the Unit Owner.

If the public offer or sale of such newly created Units would require the filing of an offering plan with or other submissions to the New York State Department of Law, in no event will the other Unit Owner have any obligations with respect to such an offering.

Notwithstanding any provisions of the Condominium Instruments to the contrary, in connection with any filings or amendments required by a Unit Owner in connection with a division or combination which is otherwise permitted pursuant to this Article including any amendment to this Declaration, only the signature on such documents of the Unit Owner making such change shall be required, but the Condominium Board and the other Unit Owner shall be obligated to execute such documentation as may be reasonably required by the Unit Owner making such change, and if they fail to do so within ten business days after written request, then the Unit Owner making such change shall be permitted to execute such documents in their name, and the parties hereby grant by this Declaration and/or by the acceptance of a deed to a Unit, an irrevocable power of attorney coupled with an interest for such Unit Owner making the change to do so.

(iii) The cost of any such division or combination (including but not limited to the cost incurred by the Board to engage architects, lawyers and other professionals to review the plans and specifications for the proposed combination or division of a Unit and the proposed amendment to this Declaration), shall be borne by the Owner of the Units being divided or combined.

(iv) Any such division or combination which is approved shall be performed in compliance with all laws, codes, ordinances and regulations. Such approved division or combination shall become effective only upon the recording of an amendment to this Declaration and the concurrent filing of all necessary amendments to the Floor Plans. Any amendments to the Floor Plans filed in accordance with the foregoing, shall have the necessary architectural certification affixed, and shall indicate the new tax lot number(s) assigned by the taxing authorities.

(v) All construction undertaken pursuant to this Section 2.5 shall be carried out in a manner that will not unreasonably disturb or interfere with the normal conduct of business of Owners and occupants of other Units, and in accordance with the procedures set forth in Article 7 of the By-laws.

(vi) The rights and obligations originally pertaining to a Unit shall apply in total to the newly created Units of that kind of Unit ("Derived Units") so that, among other things, all Derived Units shall collectively elect the total number of Board members as are allocated to the original Unit from which the Derived Units were created. In addition, upon subdivision of a Unit, the subdividing Unit Owner shall designate a Unit Owner or an accessible person (a "Derived Representative," with any successor designated in writing by a Derived Representative to the Board and the other Unit Owner to also be a Derived Representative) to act and speak on behalf of all Derived Unit Owners from such Unit, and the Derived Representative shall have irrevocable authority to speak for and bind the Owners of the Derived Units that it represents, and the other Unit Owner may rely upon pronouncements of such representative as conclusive and binding on all Derived Unit Owners. After such subdivision, in circumstances where notice, distribution or consent of the Unit Owner is required, such notice or distribution to or consent (or withholding of same) by, including the signature of, the Derived Representative shall bind all Derived Unit Owners and shall pertain to all Derived Units. Thus, (x) where consent of a Unit is required, such Derived Representative shall speak for all Derived Units as one; (y) the vote as a Unit Owner allocated to a Unit shall be divided among all Derived Units for the purposes of determining among themselves how the single vote of the Derived Unit Owners shall be cast, such that the total vote of all Derived Units shall be equal in weight to the one vote allocated to the original Unit from which the Derived Units were created, but such vote shall not be split and shall still be cast in a vote of Unit Owners as a single vote, and when such determination is made, the Derived Representative shall communicate to the other Unit Owner the manner in which the single vote is to be deemed cast; and (z) where the signature of the Unit Owner is required or desired, the Derived Representative may execute documents on behalf of all Unit Owners. Each Derived Unit Owner shall be deemed to grant and to have granted an irrevocable power of attorney, coupled with an interest, to such person as shall from time to time act as the Derived Representative in connection with the foregoing.

Section 2.6 No Partition.

No Unit (including the Common Interest appurtenant thereto), shall be subject to partition from the Condominium or otherwise by the Unit Owner. The foregoing shall not be deemed to prohibit division, creation or combination of Units as set forth in this Article 2.

ARTICLE 3

COMMON INTEREST

Section 3.1 General.

The aggregate Common Interest of all Units shall equal 100%. Notwithstanding any provisions of the Condominium Documents to the contrary, this provision of the Declaration may not be amended.

Section 3.2 Determination of Common Interest.

The Common Interest applicable to each Unit as shown on Schedule B, was determined pursuant to Section 339-i(1)(ii) of the Condominium Act. It is based upon the approximate proportion that the floor area of the Unit bears to the aggregate floor area of all the Units, but such proportion reflects the substantially exclusive advantages enjoyed by one or more but not all Units in a part or parts of the Common Elements.

Section 3.3 No Separation of Common Interest.

The Common Interest may not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even through such interest is not expressly mentioned or described in the conveyance, encumbrance or other instrument.

ARTICLE 4

COMMON ELEMENTS

Section 4.1 Definition of General Common Elements.

As more particularly shown on the Floor Plans, the General Common Elements consist of all the Common Elements except the Limited Common Elements, and include, without limitation, the following:

(a) The Land, together with all easements, rights and privileges appurtenant thereto;

(b) Sidewalks;

(c) Parking areas;

(d) The lobby (the "Lobby") in the Office Building, as shown on the Floor Plans, the doors to the Lobby and the exterior walls, the roof and the slab beneath the Lobby which are immediately contiguous to the Lobby;

(e) Air rights, transferable development rights and the like appurtenant to the Property and/or the Buildings are to be treated as Common Elements.

Section 4.2 Limited Common Elements.

(a) Limited Common Elements are Common Elements of the Buildings that are located outside of a Unit but are restricted in use to the Owner of one Unit and/or to such other occupant(s) of the Unit as the Owner shall permit. They include, without limitation, the exterior walls and roofs and the underlying slabs immediately outside and contiguous to a Unit. The Unit 2 Limited Common Elements shall include such portion of the Parking Structure described in Section 11.4 of this Declaration as is allocated as such; and such other portions of the parking areas at the Property as are at a given time allocated to the exclusive use of the Tenant under the LIJ Lease (as may be further described in Schedule E) shall at such time be treated as Unit 2 Limited Common Elements (such portions of the Parking Structure and such spaces described in this sentence are collectively referred to as the "Unit 2 Parking Lots"). The Unit 1 Limited Common Elements shall include the parking areas at the Property other than the Unit 2 Parking Lots and, in such event as it is applicable, a portion of the Parking Structure as is designated as a Unit 1 Limited Common Element, as described in Section 11.4 of this Declaration. The Limited Common Elements are more particularly described in the Floor Plans and/or in this Declaration.

(b) Each Unit Owner shall have the exclusive right to use the Limited Common Elements allocated to its Unit, and may, without any consent of the Board or the other Unit Owner, do work and perform any repair, replacement or installation on its Limited Common Elements (including the placement of equipment reasonably normally used in connection with the use of the Unit), limited only by a requirement of prior consent from the other Unit Owner in the event that such work will have a material effect on the other Unit or its operation, or the consent of the Board if the work will have a material effect on the General Common Elements, but otherwise in each instance subject to the other requirements of this Declaration and the By-Laws. If a Unit Owner delivers a written description of proposed work in sufficient specificity to the other Unit Owner and/or the Board, as the case may be, then as indicated the other Unit Owner or the Board shall within ten business days thereafter deliver a statement as to whether it has reason to believe that any such work will materially affect the Unit Owner or the Common Elements. Failure to so provide such a statement within the ten business day period shall be presumptive assent that the work does not constitute a material effect. However, if the Unit Owner or the Board asserts that there is a material effect, then the parties shall attempt to resolve such dispute within ten business days thereafter. After a failure to do, the matter of dispute and any manner of resolution shall be submitted to Arbitration.

Section 4.3 Use of and Access to Common Elements.

(a) The General Common Elements shall be used for the benefit of all Unit Owners. All Common Elements shall be used for the furnishing of services and facilities for which the same are reasonably intended, and for the enjoyment to be derived from such proper and reasonable use. Each Unit Owner may use the Common Elements in accordance with the purposes for which they were intended and the limitations in use described in this Declaration, without hindering the exercise of or encroaching upon the rights of other Unit Owners, their tenants, licensees, invitees, clients or guests. The foregoing shall not be deemed to prevent some Unit Owners from enjoying substantially exclusive rights or advantages in a part or parts of the Common Elements by reason of their ownership of a particular Unit or Units.

(b) Subject to specific limitations that might appear in the Condominium Instruments, the Condominium Board shall, if any question arises, determine the purpose for which a General

Common Element is intended to be used. The Condominium Board shall have the right to regulate access to General Common Elements and to promulgate rules and regulations scheduling the use of General Common Elements, and limiting the use of General Common Elements to Unit Owners, their tenants, licensees, invitees, clients, guests and employees, as well as providing for the exclusive use of a General Common Element by a Unit Owner and such Unit Owner's guests, for special occasions. Such use may be conditioned upon, among other things, the payment by the Unit Owner (or other person or entity) seeking such use, of such assessment as may be established by the Condominium Board for the purpose of defraying the costs of such use.

(c) Each Unit Owner shall determine the purpose for its Limited Common Elements and shall have the same right to regulate access to the Limited Common Elements and to promulgate rules and regulations regulating and scheduling use of its Limited Common Elements, as the Condominium Board has with respect to the General Common Elements.

(d) Each Unit Owner shall give the other Unit Owner access at reasonable times and in a reasonable manner to the other Unit Owner's Limited Common Elements, even if such access is through its Unit and/or the General Common Elements. Such access must be sufficient to reasonably permit installation, maintenance and replacement of equipment and other actual and contemplated uses of the Limited Common Elements.

(e) The Common Elements are not subject to partition nor are they severable from Units except in accordance with the Condominium Act.

ARTICLE 5

EASEMENTS

Section 5.1 Utilities, Pipes and Conduits.

(a) Each Unit Owner and its tenants, agents, contractors and employees shall have in common with all other Unit Owners, an easement of access to all other Units and to the Common Elements, and each Unit and the Common Elements shall be subject to such easements as may be necessary for such Unit Owner to use, install, operate, maintain, repair, rebuild, restore and replace, as necessary, such Owner's Unit including, if any, the pipes, wires, flues, ducts and conduits running from the meters or equipment servicing such Unit to the Unit.

(b) Each Unit Owner shall have an easement in common with the Owners of all other Units to use, in accordance with then present use and present available facilities, all pipes, wires, ducts, cables, conduits, public utility lines, and other Common Elements located in any of the other Units and serving such Unit Owner's Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use, in accordance with then present use and present available facilities, Common Elements serving such other Units and located in such Unit. A Unit Owner shall exercise the foregoing easements in accordance with provisions set forth therefor in this Declaration and in accordance with the Rules and Regulations of the Condominium and rules and regulations of suppliers to whom easements are granted (i.e., generally utility companies).

Section 5.2 Access of Condominium Board.

Upon terms and conditions more fully set forth in Article 5 of this Declaration and in the By-laws, the Condominium Board, its members, agents, contractors and employees, shall have a right of access to each Unit during business hours, after at least two (2) business days notice (except in the case of an "emergency," to wit, a condition requiring repair or replacement immediately necessary for the preservation or safety of the Property, or for the safety of occupants or users of the Property, or required to avoid the imminent suspension of any necessary service to the Property) and in the company of a representative of the Unit Owner, to (i) inspect the Unit for a reasonable cause; (ii) remove violations from the Unit, if such violations either (x) materially adversely affect the operation of another Unit or Common Elements in contravention of the Condominium Instruments or law or (y) are an immediate legal obligation of the Board or another Unit Owner to cure and, in the instance of either (x) or (y), such violations have been noticed of record and the Unit Owner subject to the violation had not removed or performed work necessary to remove such violation after written notice from the Board to do so within the shorter period of (A) 120 days and (B) the shortest of such period of time as to avoid (1) any liens being placed on another Unit, (2) trust fund obligations being created in favor of a materialman or other supplier of goods or services pursuant to Real Property Law Section 339-l, (3) liability on the part of the Board, any Board member or any other Unit Owner for a violation, and (4) creation of a default under another Unit Owner's Permitted Mortgage; (iii) maintain, repair or improve pipes, wires, ducts, cables, conduits and utility lines located in any Unit which are not part of the Unit and which service two or more Units; or (iv) after prior written notice to the Unit Owner to do so which provided a reasonable opportunity to cure, make repairs to the Unit to prevent actually occurring or imminent physical damage to the Common Elements or to any other Unit. The Board shall have a right of access to all General Common Elements to remove violations, to prevent harm or damage to other Common Elements or Units, Owners, occupants or users of the Property, and for inspection, maintenance, repair or improvement.

Section 5.3 Exercise of Access Easement; Indemnity.

The easements of access authorized pursuant to Article 5 of this Declaration shall be exercised in such a manner as will not materially or unreasonably interfere with the normal conduct of business of the Owner, tenant(s) or other occupant(s) of the Unit to which access is needed, or with the use of any Units (and the Limited Common Elements appurtenant thereto) or the General Common Elements, for their permitted purposes. If entry is desired during non-business hours or would involve excessive noise or heavy work, such entry shall be on not less than two (2) business days notice to the applicable Unit Owner(s), except that notice will not be necessary in the case of an emergency (as defined in Section 5.2). Unit Owners shall be obligated to indemnify other Unit Owners and the Board, and the Board shall be obligated to indemnify Unit Owners, in connection with loss, damage or liability arising from exercise of rights granted pursuant to the easements granted in Article 5 of this Declaration, in accordance with the By-laws.

Section 5.4 Easement for Encroachments.

If any portion of a Unit or the Common Elements encroaches or shall hereinafter encroach upon another Unit or the Common Elements as a result of: (i) the reconstruction or

settling or shifting of the Buildings, or (ii) any repair or restoration by the Condominium Board of the Buildings, any Unit or the Common Elements, or (iii) any reconstruction after a partial or total destruction as a result of a fire or other casualty or as a result of condemnation or eminent domain proceedings, a valid easement for the encroachment and the maintenance of the same shall and does exist, provided, however, that the encroachment is de minimis and does not materially or unreasonably interfere with the normal conduct of business of the Owner, tenant(s) or other occupant(s) of the Unit, or Common Elements being encroached upon, or with the use of the Common Elements or Unit being encroached upon, for its or their permitted purposes. Such easements as provided in this Section shall exist so long as the Buildings shall stand.

Section 5.5 Easement of Necessity.

Each Unit shall have and each Unit shall be subject to all easements of necessity in favor of such Unit or in favor of other Units and the Common Elements.

Section 5.6 Reciprocal Parking Easements.

(a) To clarify some of the rights and obligations set forth in this Declaration and the By-Laws relating to parking, this Section 5.6 is to reiterate that the Board and all Unit Owners understand and agree that there shall be a non-exclusive easement for the benefit of all Unit Owners, their tenants, subtenants, guests and invitees, to use and to park vehicles in the General Common Elements set up as parking fields at the Property from time to time and for access to such parking across roads at the Property that are designated for that purpose.

(b) Maintenance of the areas of the Property referred to in the immediately preceding subsection (a) shall generally be conducted by the Board of Managers (on behalf of the Unit Owners) and the costs thereof shall be common expenses shared by the Unit Owners, all as more particularly set forth in the Declaration and By-Laws.

(c) The easements, privileges, restrictions and provisions of this Section 5.6 shall be in perpetuity and shall continue to be benefits and servitudes upon the Property, including without limitation the Units and the General Common Elements, and shall run with the land to bind and inure to the benefit of the Unit Owners and the Board, and their respective successors and assigns, and in the event that the condominium form of ownership is terminated with respect to the Property, the same shall continue to pertain to the owners of the Property after such termination.

(d) Notwithstanding the foregoing provisions of this Section, management of parking and the conduct of the General Common Elements shall be by the Board, subject to the other provisions of this Declaration and By-Laws and shall be subject to the designation of parking areas for certain users or uses and the like, including the areas designated as Limited Common Elements.

(e) Nothing contained in this Section 5.6 shall be deemed to create nor are these provisions intended in any manner whatsoever to create any gift or dedication of any portion of the Property, including without limitation the parking fields, to the general public or for any public purpose whatsoever, it being the intention of this Section that its construction be limited to the purposes set forth herein and subject to the provisions of the Declaration and the By-Laws.

(f) As with all other provisions of this Declaration, all mortgages and other liens and encumbrances hereafter placed upon any Unit or any other portion of the Property shall be subject and subordinate to the encumbrances created hereby, and neither the provisions of this Section 5.6 nor any other provisions of the Declaration shall be affected in any way by the foreclosure of any mortgage, lien or encumbrance on a Unit or any other portion of the Property or by virtue of any action or proceeding brought with respect thereto.

ARTICLE 6

VOTING RIGHTS

Section 6.1 Voting Rights Based on Interest in Common Elements.

Each Unit Owner shall be entitled to one vote for each percentage of common interest, rounded to the nearest whole number, so that the Unit 1 Owner shall have 6,539 votes and the Unit 2 owner shall have 3,461 votes, with the total number of votes equaling 100, on all matters put to a vote of Unit Owners (and, as stated elsewhere, the total number of votes allocated to Derived Units created from an original Unit shall be equivalent to the number of votes originally allocated to the Unit and shall be exercised by the Derived Representative.

ARTICLE 7

COMMON EXPENSES - ALLOCATION, LIEN AND LIABILITY

Section 7.1 Allocation of Common Expenses.

(a) Except as otherwise permitted in this Section or in the By-laws and specifically in the immediately following subsection (b), the Common Expenses shall be charged by the Condominium Board to the Unit Owners according to their respective Common Interests. Examples of likely Common Expenses include salaries and costs of Property staff, fees of the Condominium Managing Agent, landscaping, road and parking field maintenance, maintenance and expenses relating to the Lobby, security services, casualty and liability insurance, accounting expenses and reserves. Although there is no surplus anticipated, the Common Surplus shall be distributed among the Unit Owners in the same manner, after, however, offsetting any past due Common Charges and other past due assessments with respect to a particular Unit, against the proportionate share of Common Surplus distributable to the Owner of that Unit. Subject to the provisions of Section 5.1 of the By-laws, assessments against the Unit Owners shall be made and approved by the Condominium Board and shall be paid by the Unit Owners as Common Charges pursuant to the By-laws of the Condominium.

(b) Notwithstanding any provisions in this Declaration for the allocation of expenses generally pursuant to Common Interest, (i) if there are any esthetic or decorative changes or installations, including without limitation capital improvements, or levels of maintenance to General Common Elements that exceed the standard of reasonable normal first class operation and maintenance for such a facility at a comparable commercial property to the Property, then the amount of costs and expenses relating to such matters that are not consented to by the Unit 2 Owner as exceeds the costs and expenses that would pertain to reasonable normal first class

operation and maintenance shall be the sole cost and expense of the Unit 1 Owner; and (ii) if there is (x) an expense arising solely with respect to the General Common Elements or (y) a capital expenditure related to the General Common Elements that in either instance (x) or (y) solely or virtually exclusively benefits one Unit Owner and not the other, and if the non-benefiting Unit Owner has not consented to the matter, then the expenses relating to such, including maintenance expenses, shall be payable solely by the benefiting Unit Owner. Disputes with respect to the provisions of this Section 7.1 (b) shall be resolved by Arbitration.

(c) Notwithstanding the provisions of the preceding subsections (a) and (b), the Condominium Board may elect to specially allocate and apportion Common Expenses among the Owners of particular Units, based on the special or exclusive or relative availability or use or control by such Unit Owners of the General Common Elements (or, if applicable, the Unit Areas or Limited Common Elements) to which such expenses are attributable or the special requirements of a particular Unit Owner (for example, the additional expenses relating to the requirement of 24-hour snow removal or lighting that is needed for a Unit Owner who seeks to operate on a 24-hour basis rather than during normal business hours).

(d) Generally, the expenses of operation and maintenance of the Unit 1 Area shall be the sole obligation of the Unit 1 Owner and the expenses of operation and maintenance of the Unit 2 Area shall be the sole obligation of the Unit 2 Owner.

(e) Any dispute in connection with an amount of Common Charges or the allocation of a particular Common Expense or expenses which must be divided among Limited Common Elements (such as those occasions when a single expense represents work performed on a roof which is partially a Unit 1 Limited Common Element and partially a Unit 2 Limited Common Element (a "Common Roof")) shall be determined in the first instance by the Condominium Board, and if a dispute still exists, then by Arbitration.

Section 7.2 Unpaid Common Charges - Personal Obligation of Unit Owner and Lien on Unit.

The Common Charges shall be paid when due as set forth in the By-laws. All sums assessed as Common Charges by the Condominium Board but unpaid, together with late charges as may be established by the Condominium Board and interest thereon at such rate as may be fixed by the Condominium Board (such interest rate not to exceed the maximum rate of interest then permitted by law), and reasonable attorneys' fees and other costs and expenses incurred in efforts to collect such past due assessments, shall be the obligation of the Unit Owner and shall constitute a lien upon the Unit prior to all other liens except any lien for past due and unpaid real estate taxes.

Section 7.3 Foreclosure of Lien for Common Charges.

Any lien for past due Common Charges and assessments may be foreclosed by the Condominium Board in accordance with the laws of the State of New York, in like manner as a judicial foreclosure of a mortgage on real property, and the Condominium Board shall also have the right to recover all costs incurred in foreclosing on such lien, including but not limited to reasonable attorney's fees and disbursements. In the event the proceeds of any foreclosure sale for non-payment of Common Charges are not sufficient to pay such unpaid Common Charges

and related expenses and the unpaid balance shall be charged to or paid by all Unit Owners as a Common Expense, such Unit Owners who pay such expense may recover such expense from the defaulting Unit Owner, and the Board shall cooperate in such collection. Where the holder of a mortgage of record, or other purchaser of a Unit at a foreclosure sale of a recorded mortgage, obtains title to the Unit as a result of foreclosure of the mortgage, such acquirer of title, its successors or assigns, shall be liable for, and the Unit shall be subject to, a lien for Common Charges chargeable to such Unit that were assessed and due prior to the acquisition of title to such Unit by such acquirer to the extent not recovered through foreclosure or otherwise from the defaulting Unit Owner.

Section 7.4 No Exemption or Waiver of Common Charges.

Every Unit Owner shall pay the Common Charges assessed against the Unit Owner when due. No Unit Owner may exempt himself, herself or itself from liability for payment of Common Charges assessed against said Unit Owner by the Board by waiver of the use or enjoyment of any of the Common Elements, by the abandonment of the Owner's Unit, or by claiming the quantity or quality of services are not worthy of such payment or are not as were contemplated by such Unit Owner at the time of purchase.

Section 7.5 Grantee to be Liable with Grantor for Unpaid Common Charges.

Upon any conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for any unpaid Common Charges assessed against the Unit and due up to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. The grantee shall be liable for Common Charges accruing while the grantee is the Unit Owner.

ARTICLE 8

CONDOMINIUM GOVERNANCE

Section 8.1 Board of Managers.

The affairs of the Condominium shall be governed and controlled by a Board of Managers, as more fully described in the By-laws. The Board of Managers shall serve and shall have the duties and powers as provided in the By-laws. The Board of Managers shall have general responsibility for the maintenance, repair, replacement, management, operation and use of the General Common Elements and shall have the right to delegate duties to a manager or agent. When in this Declaration or in the By-laws an action is to be undertaken, or is authorized to be done by the Condominium, it shall mean the Condominium acting through its Board of Managers, unless the context clearly requires another interpretation (e.g., through a vote of the Unit Owners).

Section 8.2 Unit 1 Area.

The affairs of the Unit 1 Area shall be governed and controlled by the Unit 1 Owner, who shall have responsibility for the maintenance, repair, replacement, management, operation and use of Unit 1 and the Unit 1 Limited Common Elements.

Section 8.3 Unit 2 Area.

The affairs of the Unit 2 Area shall be governed and controlled by the Unit 2 Owner, who shall have responsibility for the maintenance, repair, replacement, management, operation and use of Unit 2 and the Unit 2 Limited Common Elements.

Section 8.4 Administration.

The administration of the Condominium shall be in accordance with the provisions of this Declaration and the By-laws.

Section 8.5 Person to receive service.

Notice of process in any action which may be brought against the Condominium or the Board of Managers may be served on the President of the Condominium at the office of the Condominium, 1111 Marcus Avenue, New York. The Secretary of State of the State of New York is hereby also designated agent for service of process on the Board of Managers.

ARTICLE 9

CONDOMINIUM INSTRUMENTS RUN WITH THE LAND

Section 9.1 All Owners, Tenants and Occupants Subject to Condominium Instruments Which Run With the Land.

All present or future Unit Owners, tenants, occupants or any other person that might use the Units or the facilities of the Property in any manner, are subject to the provisions of this Declaration, the By-laws, and Rules and Regulations of the Condominium, as they may be amended from time to time. The acceptance of a deed of conveyance of, or the entering into of a lease for all or any portion of, or the entering into occupancy of all or any portion of a Unit shall signify that the provisions of this Declaration and the By-laws and Rules and Regulations of the Condominium are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Units, as though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof. Including without limitation in the foregoing is (x) acceptance and granting of the powers of attorney set forth in Sections 2.5(c)(vii) to the Derived Representative; and (y) the agreement of tenants and occupants not to violate the provisions of the Condominium Instruments.

ARTICLE 10

AMENDMENT AND TERMINATION

Section 10.1 Amendment.

(a) Except for division, creation, elimination or combination of Units pursuant to Article 2 of this Declaration which may be accomplished by means of the procedures set forth in that Article, this Declaration and/or the By-laws may be modified, altered, amended or added to

only by consent of both the Unit 1 Owner and the Unit 2 Owner. Any approved amendment must be executed by all Unit Owners and duly recorded in the Recording Office.

(b) Notwithstanding any of the foregoing or other provisions of this Declaration to the contrary, a Permitted Mortgagee (as defined in the By-laws) which has so requested in writing at the time of making of the Permitted Mortgage shall be entitled to a written acknowledgment by the Board that no amendment to the Declaration or the By-Laws shall be effective against such Permitted Mortgagee unless it has been consented to in writing by such Permitted Mortgagee, except for such amendment as is established pursuant to the operation of Article 2 of this Declaration.

Section 10.2 Termination and Withdrawal.

The Condominium shall not be terminated or withdrawn from the Condominium Act, except in accordance with this Declaration, the By-laws, and all laws, ordinances and regulations applicable to the Property at the time termination or withdrawal is desired. In this regard, the Condominium may be terminated following a loss due to casualty or condemnation, as may be described in the By-laws. In addition, the Condominium may be withdrawn from the provisions of the Condominium Act by the affirmative vote or consent of both the Unit 1 Owner and the Unit 2 Owner. If withdrawal of the Condominium from the Condominium Act is authorized by vote of the Unit Owners as provided in this Section 10.2, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale arising out of the partition action shall be divided by the Board of Managers among all Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of the Unit Owner's share of such net proceeds, all liens on the Unit Owner's Unit, in order of priority of such liens.

ARTICLE 11

GENERAL

Section 11.1 Original Unit Owners.

A. To the extent that a Unit Owner or the immediate transferees (in each instance, if applicable, an "Initial Transferee") of Unit 1 or Unit 2 from the Declarant did not take title pursuant to a Condominium Offering Plan filed with the New York State Department of Law pursuant to Article 23-A of the General Business Law, the acquisition of title was pursuant to a so-called "no-action letter," "no-jurisdiction letter," or a similar advice from the New York State Department of Law (a "No-Action Letter") that the particular transaction did not require the filing of an Offering Plan. As part of the application pursuant to which such advice was issued, it was represented that the Declaration of Condominium would include a provision to the following effect, which provisions shall pertain to Initial Transferees, to wit, that an Initial Transferee shall only further transfer its Unit:

(a) in connection with a filed Offering Plan pursuant to Section 352-e of the New York State General Business Law or a subsequent no-jurisdiction letter, no-action letter or other

prior written approval or advice from the New York State Department of Law regarding such transfer; or

(b) in a bulk transfer of all of the Condominium Units owned by such Initial Transferee in a private offering; or

(c) in a transfer of the Unit to (i) an entity which is related to or affiliated with the Initial Transferee and/or one or more of the Initial Transferee's members or principals or entities owned by any or all of them, (ii) a mortgagee of the Unit or the purchaser of the Unit at a foreclosure sale, or (iii) the Unit Owner of another Condominium Unit.

B. The Unit Owners and the Board shall reasonably cooperate with each other in connection with filings with respect to No-Action Letters or full offering plans or other documentation or filings of or by a Unit Owner in connection with the potential sale of its Unit or a Derived Unit, provided that, except for incidental and minor expenses, all such efforts shall be at the sole cost and expense of the requesting party, including the legal fees of the other parties in connection with the matter.

Section 11.2 Rights to Name Reserved.

The Property and Buildings located at 1111 Marcus Avenue, Lake Success, New York have over the years been known as "i.Park," "i.Park Lake Success" and/or similar names (together, the "Protected Names"). The Protected Names and the goodwill which they symbolize are owned by Declarant (or its affiliate(s) or assignees or designees) and shall remain the exclusive property of such parties. No rights to the Protected Names are granted to the Property or to users of the Property, and neither the Board nor any Unit Owner, tenant, or other party may use any Protected Names or any name likely to be confused with any of the Protected Names, as a mark or trade name, without the prior written consent of Declarant or its assignees explicitly designated with respect to one or more Permitted Name. No assignment or designation or license of the Protected Names is intended or made by creation of the Condominium or by conveyance of a Unit. There is no waiver of Declarant's rights, whether or not such names remain present at the Buildings in signs or references are otherwise used to the names. Any such signage which continues is deemed to have been permitted by Declarant with its consent and without any loss of rights or waiver and is revocable at any time by Declarant.

Section 11.3 LIJ Lease

(a) Although the LIJ Lease shall be subject and subordinate to this Declaration, to the extent that the LIJ Lease is in full force and effect, the Condominium and the Board and Unit Owners shall be obligated to permit the Unit 2 Owner to provide to the Tenant under the LIJ Lease all benefits of the LIJ Lease pertaining to the Tenant under the LIJ Lease. The Unit 2 Owner shall have a right to require such performance of the Board and other Unit Owners, with disputes being subject to Arbitration, subject to the limitation that the obligations of Unit Owners in this regard shall be limited to equitable-type remedies and in any event the obligations of Unit Owners to be limited to their equity in their Units.

(b) Notwithstanding any provisions of the Condominium Instruments to the contrary, (i) the Tenant under the LIJ Lease becomes the Owner of Unit 2, for so long as the Tenant under the LIJ Lease is the Owner of Unit 2, the operation of the Condominium Instruments and of the Condominium shall not diminish the rights of the Unit 2 Owner with respect to those specific matters (such as certain aspects of use of the premises, signage and parking as are referred to in Sections 2.6(a)(2)(v) and 7.8(m) of the By-laws) as are set forth in Schedule E to the Declaration that would have pertained to the benefit of the Tenant under the LIJ Lease if the Unit 2 Owner were the Tenant under the LIJ Lease and the LIJ Lease had not terminated; and (ii) the use of utilities and the rights and obligations of the Unit Owners with respect to utilties (whether or not the Unit 2 Owner is the Tenant under the LIJ Lease), including without limitation as to usage of utilities by the Unit 2 Owner, shall be governed in the same manner as the provisions of Article XII of the Lease (the "Article XII Provisions"), included as a Schedule E Provision (defined below), so that the Unit 2 Owner shall have the rights and limitations of the Tenant under the Article XII Provisions, the Unit 1 Owner shall be deemed the Landlord as set forth in the Article XII Provisions, and the Board and all Unit Owners shall cooperate with the parties in the implementation of the Article XII Provisions. Accordingly, Schedule E to the Declaration includes redacted provisions from the Lease (the "Schedule E Provisions") which are to document such provisions, with the rights and obligations of the Tenant under the LIJ Lease set forth in those specific provisions to be ascribed to the Unit 2 Owner and the rights and obligations of the Landlord to be ascribed to the Board. This provision is not in derogation of the fact that the LIJ Lease will have terminated upon the purchase by the Tenant under the LIJ Lease, and it is only the specifically listed Schedule E Provisions that are the subjects of this treatment. Disputes in connection with these provisions shall be resolved by Arbitration.

(c) (i) As referenced in Schedule E, pursuant to the LIJ Lease, Declarant, as Landlord under the LIJ Lease, and Tenant under the LIJ Lease agreed to use commercially reasonable efforts to obtain real estate tax benefits or incentives as may be available from the Village of Lake Success, Town of North Hempstead, County of Nassau, State of New York or any other governmental authorities on account of the Lease and/or the occupancy or use of or by the Tenant under the LIJ Lease, including, without limitation, a so-called PILOT arrangement, and each party was to reasonably cooperate with the other in connection with any application for any such real estate tax benefits or incentives (the "PILOT Benefits"), including, without limitation, the execution and filing of any documentation that may be required for the receipt of such PILOT Benefits. Pursuant to the LIJ Lease, the parties were to share the PILOT Benefits, as agreed (the "PILOT Benefits Sharing Arrangement").

(ii) It is intended that the requirement of cooperation to obtain PILOT Benefits and the PILOT Benefits Sharing Arrangement shall continue in effect even though the Property is owned in the condominium form of ownership. Accordingly, among other things, obligations in the PILOT Benefits Sharing Arrangement measured against taxes and assessments levied against the entire Property prior to the creation of the Condominium shall be deemed measured against the aggregate of all taxes and assessments levied against all parcels comprising the Condominium. If the Tenant under the LIJ Lease acquires Unit 2, then the terms of the PILOT Benefits Sharing Arrangement shall run with the land, and with respect to the terms of the PILOT Benefits Sharing Arrangement the Unit 2 Owner shall succeed to the interest of the Tenant under the LIJ Lease, and the Unit 1 Owner or other assignee of the Landlord under the LIJ Lease shall succeed to the interest of the Landlord under the LIJ Lease.

(iii) In accordance with the foregoing provisions of this subsection (c), subject to the relevant Schedule E Provisions, the Landlord under the LIJ Lease (and, subsequently, the Unit 1 Owner or its assignees) shall be entitled to thirty percent (30%) of the PILOT Benefit, net of any costs and expenses incurred by the Landlord under the LIJ Lease (or its successors) in connection with the procurement of such PILOT Benefit (including, without limitation, the costs of any public concessions made by the Landlord under the LIJ Lease in connection therewith), and the Tenant under the LIJ Lease (or, if applicable, the Unit 2 Owner) shall be entitled to seventy percent (70%) of the PILOT Benefit, net of any costs and expenses incurred by the Tenant under the LIJ Lease (or its successors) in connection with the procurement of the PILOT Benefit (including, without limitation, the costs of any public concessions made by Tenant under the LIJ Lease or its successor in connection therewith). Landlord under the LIJ Lease (and its successors) shall only have the right to share such PILOT Benefit if, and to the extent that, such PILOT Benefit reduces the applicable taxes below the applicable base year, as defined in the LIJ Lease.

(iv) The parties to the PILOT Benefits Sharing Arrangement shall be obligated to make payments to each other and otherwise act as may be required to effectuate the PILOT Benefits Sharing Arrangement.

(d) If the Tenant under the LIJ Lease acquires Unit 2, then the following provisions shall pertain (but such shall cease to pertain after such owner is no longer the Unit 2 Owner, even if it subsequently re-acquires the Unit):

(i) No portion of the Property other than Unit 2 will be leased to (x) a hospital and/or health care system (other than a member of the North Shore-Long Island Jewish Health System) or for any of the uses listed on "Exhibit M" set forth in Schedule E (collectively, the "Primary Exclusive Uses") or (y) subject to the provisions of this Section 11.3(d) below, any other person providing medical services, any non-for profit scientific or medical research facility or institution, or any regulatory or governmental agency related to health care services (collectively, the "Non-Primary Exclusive Uses"). Nevertheless, (A) the provisions of this subsection shall not limit any rights contained in leases of tenants (or their subtenants or licensees) in effect as of the date of the LIJ Lease (including any renewal or expansion rights therein); provided that if any such tenants are using their premises for Primary Exclusive Uses, then such tenants' premises shall not be expanded unless such tenants have such expansion rights as of the date of the LIJ Lease; (B) the tenant at the Property as of the date of the LIJ Lease known as LA Fitness (or its subtenants or licensees) shall not be subject to any restrictions on its ability to expand its premises for any use permitted under its lease as of the date of the LIJ Lease; and (C) tenants as of the date of the LIJ Lease known as Bio Partners and iPro (or their subtenants or licensees) may occupy space at the Property.

(ii) A. No portion of the Property other than Unit 2 may be leased for a Non-Primary Exclusive Use (for these purposes, such portion of the Property, the "Exclusive Use Space") without compliance with the procedure described in this Section 11.3(d), which a party shall only have the right to do if (i) a potential tenant or user for such Exclusive Use Space has visited the Building and conducted a physical examination of such space and (ii) the Unit 2 Owner has received all parking spaces it is entitled to pursuant to the Schedule E Provisions.

B. The procedure described in this Section 11.3(d) shall be instituted by giving notice thereof (the "Exclusive Use Space Option Notice") to the Unit 2 Owner, which Exclusive Use Space Option Notice shall (i) describe the Exclusive Use Space (and the anticipated use of such space), (ii) set forth the calculation of the number of square feet of Rentable Area (as described in the LIJ Lease) contained in the Exclusive Use Space, (iii) have annexed thereto a floor plan depicting the Exclusive Use Space, and (iv) set forth the date that it is reasonably expected that the Exclusive Use Space will be vacant and available for occupancy (such date designated being referred to herein as the "Scheduled Exclusive Use Space Commencement Date").

C. The Unit 2 Owner shall have the option (the "Exclusive Use Space Option") to lease the Exclusive Use Space for a term commencing on the Exclusive Use Space Option Space Commencement Date and expiring on the Expiration Date by giving notice thereof (the "Exclusive Use Space Response Notice") to the owner of the Unit within which such space is located not later than the thirtieth (30th) day after the date of the Exclusive Use Space Option Notice to the Unit 2 Owner. Time shall be of the essence as to the date by which the Unit 2 Owner must give the Exclusive Use Space Response Notice to exercise the Exclusive Use Space Option. If the Unit 2 Owner does not give the Exclusive Use Space Response Notice on or prior to the thirtieth (30th) day after the date on which it is given the Exclusive Use Space Option Notice, then the landlord of the Exclusive Use Space shall thereafter have the right to lease or use the Exclusive Use Space (or any part thereof) to any other party on terms acceptable to the landlord of the Exclusive Use Space in its sole discretion (including permitting the tenant thereunder to use such space for a Non-Primary Exclusive Use) without being required to make any other offer to the Unit 2 Owner regarding the Exclusive Use Space under this Section 11.3(d), except that if the landlord of the Exclusive Use Space does not lease the Exclusive Use Space (or a part thereof) to another tenant within two (2) years after the date that it gave the applicable Exclusive Use Space Option Notice to the Unit 2 Owner, then the landlord of the Exclusive Use Space shall not thereafter lease (or permit to be leased) such Exclusive Use Space (or such part thereof) to another person without first again complying with the procedure set forth in this Section 11.3(d), if applicable. The Unit 2 Owner shall not have the right to revoke an Exclusive Space Premises Response Notice that it gives pursuant to this Section 11.3(d).

D. If the Unit 2 Owner exercises the Exclusive Use Space Option in accordance with the provisions of this Section 11.3(d), then, the Unit 2 Owner shall enter into a lease (an "Exclusive Use Space Lease") for such space on the same terms as the prospective lease with the originally proposed tenant.

E. If, at any time prior to the Scheduled Exclusive Use Space Commencement Date, there is a reasonable expectation that possession will not be delivered on the Scheduled Exclusive Use Space Commencement Date because of the holding over or retention of possession thereof by any tenant, undertenant or other occupant, then prompt notice thereof shall be given to the Unit 2 Owner (any such notice being referred to herein as an "Exclusive Use Space Commencement Date Option Space Holdover Notice"). The Exclusive Use Space Commencement Date Option Space Holdover Notice shall include a good faith estimate of the delay in delivery of possession of the Exclusive Use Space that is expected to result from any such holding over or retention of possession. If (a) an Exclusive Use Space Commencement Date Option Space Holdover Notice is given to the Unit 2 Owner, and (b the

landlord of the Exclusive Use Space thereafter in good faith determines that the initial estimate of the extent of such delay is no longer accurate, then the landlord of the Exclusive Use Space shall give promptly to Unit 2 Owner a replacement Exclusive Use Space Commencement Date Option Space Holdover Notice (which includes the revised estimate of such delay). Subject to the terms of this Section 11.3(d), if the landlord of the Exclusive Use Space is unable to deliver possession of the Exclusive Use Space on the Scheduled Exclusive Use Space Commencement Date because of the holding over or retention of possession of any tenant, undertenant or occupant in the Exclusive Use Space without consent, then (i) the landlord of the Exclusive Use Space shall not be subject to any liability for failure to give possession on said date (except as otherwise provided in this Section 11.03(d)), (ii) the Unit 2 Owner waives any right to recover any damages which may result from a failure to deliver possession of the Exclusive Use Space to the Unit 2 Owner on the Scheduled Exclusive Use Space Commencement Date and agrees that the provisions of this Section 11.3(d) shall constitute an "express provision to the contrary" within the meaning of Section 223-a of the New York Real Property Law, (iii) provided the Unit 2 Owner is not responsible for such inability to deliver possession, all rent payable with respect to the Exclusive Use Space shall be abated and the date that the Exclusive Use Space is demised to the Unit 2 Owner pursuant to this Section 11.3(d) shall be postponed until fifteen (15) business days after notice to the Unit 2 Owner that the Exclusive Use Space is vacant and available for occupancy or will be vacant and available for occupancy at the end of such period of fifteen (15) business days, and (iv) the landlord of the Exclusive Use Space, at its expense, shall use its reasonable efforts to deliver possession of the Exclusive Use Space to the Unit 2 Owner and in connection therewith, if necessary, shall promptly institute and diligently and in good faith prosecute holdover and any other appropriate proceedings against the occupant of the Exclusive Use Space (the date that the Exclusive Use Space is available to the Unit 2 Owner being referred to herein as the "Exclusive Use Space Option Space Commencement Date"). If possession of the Exclusive Use Space is not delivered to the Unit 2 Owner within one hundred twenty (120) days after the Scheduled Exclusive Use Space Commencement Date, then the Unit 2 Owner may elect not to lease the Exclusive Use Space by notice no later than fifteen (15) days after the expiration of such one hundred twenty (120) day period (it being understood that if the Unit 2 Owner makes such election, then the landlord of the Exclusive Use Space shall have the right to lease the Exclusive Use Space to any third party without the Unit 2 Owner having any rights thereto under this Section 11.3(d)).

Section 11.4 Subdivision; Parking Structure

(a) Declarant and each Unit Owner by acceptance of a deed to a Unit acknowledge that (i) Declarant and the Tenant under the LIJ Lease are parties to that certain Purchase and Sale Agreement (the "Purchase and Sale Agreement") regarding a certain portion of the Property (such portion is referred to as the "FAR Parcel"); (ii) in connection with the consummation of the Purchase and Sale Agreement, the FAR Parcel would be released from the Property without requirement of further vote or consent by or the payment of separate consideration to the Condominium or the Unit Owners, as Unit Owners; (iii) the FAR Parcel will be the subject of a subdivision; (iv) the FAR Parcel may be used for parking or other purposes to benefit in whole or in part the Unit 2 Area; and (iv) the owner of the FAR Parcel and the Board, on behalf of the Unit Owners, may enter into an agreement (the "Reciprocal Easement Agreement") respecting the FAR Parcel and the Property.

LEGAL DESCRIPTION

ALL THAT LOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING PARTLY IN THE VILLAGE OF LAKE SUCCESS, TOWN OF NORTH HEMPSTEAD AND PARTLY WITHOUT SAID VILLAGE, BUT ADJACENT TO THE SOUTHERLY AND EASTERLY BOUNDARY LINES THEREOF, IN THE TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU, STATE OF NEW YORK, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY TERMINUS OF A CURVE BEARING TO THE RIGHT HAVING A RADIUS OF 54.00 FEET AND A LENGTH OF 57.87 FEET, SAID CURVE CONNECTING THE SOUTHERLY SIDE OF MARCUS AVENUE, AS WIDENED, WITH THE EASTERLY SIDE OF LAKEVILLE ROAD, AS WIDENED;

RUNNING THENCE FROM SAID POINT OF BEGINNING EASTERLY ALONG THE NEW SOUTHERLY SIDE OF MARCUS AVENUE THE FOLLOWING TWELVE (12) COURSES AND DISTANCES:

1) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 2,630.00 FEET, A DISTANCE OF 249.78 FEET;

2) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 4,070.00 FEET, A DISTANCE OF 585.11 FEET;

3) SOUTH 70 DEGREES 11 MINUTES 27 SECONDS EAST, A DISTANCE OF 157.19 FEET;

4) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 5,689.58 FEET, A DISTANCE OF 102.58 FEET;

5) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 132.00 FEET, A DISTANCE OF 34.90 FEET;

6) ALONG A CURVE BEARING TO THE LEFT, HAVING A RADIUS OF 108.00 FEET, A DISTANCE OF 27.38 FEET;

7) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 5,681.58 FEET, A DISTANCE OF 50.00 FEET;

8) ALONG A CURVE BEARING TO THE LEFT, HAVING A RADIUS OF 108.00 FEET, A DISTANCE OF 27.38 FEET;

9) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 132.00 FEET, A DISTANCE OF 34.90 FEET;

10) ALONG A CURVE BEARING TO THE RIGHT, HAVING RADIUS OF 5,689.58 FEET, A DISTANCE OF 405.29 FEET;

11) SOUTH 63 DEGREES 19 MINUTES 51 SECONDS EAST, A DISTANCE OF 195.48 FEET;

12) ALONG A CURVE BEARING TO THE LEFT, HAVING RADIUS OF 5,769.58 FEET, A DISTANCE OF 401.28 FEET TO A POINT FORMED BY THE INTERSECTION OF THE SOUTHERLY SIDE OF MARCUS AVENUE, AS WIDENED, WITH THE DIVISION LINE BETWEEN THE SUBJECT PARCEL AND LAND NOW OR FORMERLY OF THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) AS TRUSTEE;

-LEGAL DESCRIPTION CONTINUED-

LEGAL DESCRIPTION

RUNNING THENCE SOUTH 16 DEGREES 04 MINUTES 36 SECONDS WEST, ALONG SAID DIVISION LINE, A DISTANCE OF 1,501.07 FEET TO THE NORTHERLY SIDE OF UNION TURNPIKE;

RUNNING THENCE WESTERLY, ALONG THE NORTHERLY SIDE OF UNION TURNPIKE, THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1) NORTH 89 DEGREES 33 MINUTES 20 SECONDS WEST, A DISTANCE OF 615.31 FEET;

2) ALONG A CURVE BEARING TO THE LEFT, HAVING A RADIUS OF 2,198.59 FEET, A DISTANCE OF 461.81 FEET TO A MONUMENT AND TO LANDS NOW OR FORMERLY OF LONG ISLAND LIGHTING COMPANY;

RUNNING THENCE NORTHERLY, WESTERLY AND SOUTHWESTERLY, ALONG LANDS NOW OR FORMERLY OF THE LONG ISLAND LIGHTING COMPANY THE FOLLOWING FIVE (5) COURSES AND DISTANCES:

1) NORTH 16 DEGREES 48 MINUTES 09 SECONDS WEST, A DISTANCE OF 150.00 FEET TO A MONUMENT;

2) NORTH 25 DEGREES 53 MINUTES 44 SECONDS WEST, A DISTANCE OF 134.04 FEET;

3) WESTERLY, ALONG A CURVE (NONTANGENT) BEARING TO THE RIGHT, HAVING A RADIUS OF 265.00 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 64 DEGREES 28 MINUTES 48 SECONDS WEST AND A CHORD LENGTH OF 180.08 FEET, A DISTANCE OF 183.73 FEET TO A MONUMENT;

4) SOUTH 84 DEGREES 20 MINUTES 34 SECONDS WEST, A DISTANCE OF 286.65 FEET TO A MONUMENT;

5) SOUTH 48 DEGREES 54 MINUTES 04 SECONDS WEST, A DISTANCE OF 102.07 FEET TO THE EASTERLY SIDE OF LAKEVILLE ROAD, AS WIDENED;

RUNNING THENCE NORTH 41 DEGREES 06 MINUTES 47 SECONDS WEST, ALONG THE EASTERLY SIDE OF LAKEVILLE ROAD, AS WIDENED, A DISTANCE OF 20.00 FEET TO A POINT FORMED BY THE INTERSECTION OF SAID EASTERLY SIDE OF LAKEVILLE ROAD, AS WIDENED, WITH THE DIVISION LINE BETWEEN THE SUBJECT PARCEL AND LAND NOW OR FORMERLY OF MANHASSET-LAKEVILLE WATER DISTRICT;

RUNNING THENCE NORTHEASTERLY AND NORTHWESTERLY, ALONG SAID DIVISION LINE, THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1) NORTH 48 DEGREES 54 MINUTES 04 SECONDS EAST, A DISTANCE OF 118.73 FEET;

2) NORTH 41 DEGREES 05 MINUTES 56 SECONDS WEST, A DISTANCE OF 76.00 FEET TO OTHER LANDS NOW OR FORMERLY OF THE LONG ISLAND LIGHTING COMPANY;

RUNNING THENCE NORTHEASTERLY, NORTHWESTERLY AND SOUTHWESTERLY, ALONG SAID OTHER LANDS NOW OR FORMERLY OF THE LONG ISLAND LIGHTING COMPANY, THE FOLLOWING THREE (3) COURSES AND DISTANCES:

-LEGAL DESCRIPTION CONTINUED-

LEGAL DESCRIPTION

1) NORTH 48 DEGREES 54 MINUTES 04 SECONDS EAST, A DISTANCE OF 48.00 FEET;

2) NORTH 41 DEGREES 05 MINUTES 56 SECONDS WEST, A DISTANCE OF 225.00 FEET;

3) SOUTH 48 DEGREES 54 MINUTES 04 SECONDS WEST, A DISTANCE OF 132.06 FEET TO THE EASTERLY SIDE OF LAKEVILLE ROAD, AS WIDENED;

RUNNING THENCE NORTHERLY, ALONG SAID EASTERLY SIDE OF LAKEVILLE ROAD, AS WIDENED, THE FOLLOWING FOURTEEN COURSES AND DISTANCES:

1) ALONG A CURVE (NONTANGENT) BEARING TO THE RIGHT, HAVING A RADIUS OF 861.20 FEET, SAID CURVE HAVING A CHORD BEARING OF NORTH 21 DEGREES 58 MINUTES 00 SECONDS WEST AND A CHORD DISTANCE OF 84.58 FEET, A DISTANCE OF 84.61 FEET;

2) NORTH 19 DEGREES 09 MINUTES 07 SECONDS WEST, A DISTANCE OF 106.45 FEET;

3) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 912.37 FEET, A DISTANCE OF 349.70 FEET;

4) NORTH 02 DEGREES 48 MINUTES 33 SECONDS EAST, A DISTANCE OF 31.49 FEET;

5) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 132.00 FEET, A DISTANCE OF 34.18 FEET;

6) ALONG A CURVE BEARING TO THE LEFT, HAVING A RADIUS OF 108.00 FEET, A DISTANCE OF 27.96 FEET;

7) NORTH 02 DEGREES 48 MINUTES 33 SECONDS EAST, A DISTANCE OF 143.09 FEET;

8) ALONG A CURVE (NONTANGENT) BEARING TO THE RIGHT, HAVING A RADIUS OF 22.00 FEET, SAID CURVE HAVING A CHORD BEARING OF NORTH 22 DEGREES 25 MINUTES 55 SECONDS WEST AND A CHORD DISTANCE OF 18.76 FEET, A DISTANCE OF 19.38 FEET;

9) NORTH 02 DEGREES 48 MINUTES 33 SECONDS EAST, A DISTANCE OF 533.86 FEET;

10) NORTH 07 DEGREES 35 MINUTES 33 SECONDS EAST, A DISTANCE OF 91.47 FEET;

11) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 1,154.00 FEET, A DISTANCE OF 273.95 FEET;

12) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 204.00 FEET, A DISTANCE OF 53.41 FEET;

13) ALONG A CURVE BEARING TO THE LEFT, HAVING A RADIUS OF 296.00 FEET, A DISTANCE OF 45.70 FEET;

14) ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 1,154.00 FEET, A DISTANCE OF 148.66 FEET;

-LEGAL DESCRIPTION CONTINUED-

LEGAL DESCRIPTION

RUNNING THENCE NORTHEASTERLY, ALONG A CURVE BEARING TO THE RIGHT, HAVING A RADIUS OF 54.00 FEET, SAID CURVE CONNECTING THE EASTERLY SIDE OF LAKEVILLE ROAD, AS WIDENED, WITH THE SOUTHERLY SIDE OF MARCUS AVENUE, AS WIDENED, A DISTANCE OF 57.87 FEET TO THE POINT OR PLACE OF BEGINNING.

EXCEPTING THEREFROM SO MUCH OF THE ABOVE DESCRIBED PREMISES DESCRIBED KNOWN AND DESIGNATED AS SECTION 8 BLOCK B-18 LOT 339 ON THE NASSAU COUNTY LAND AND TAX MAP.

FOR INFORMATION ONLY SECTION: 8 BLOCK: B-18 LOT(S): 300H AND 300L.

SCHEDULE B

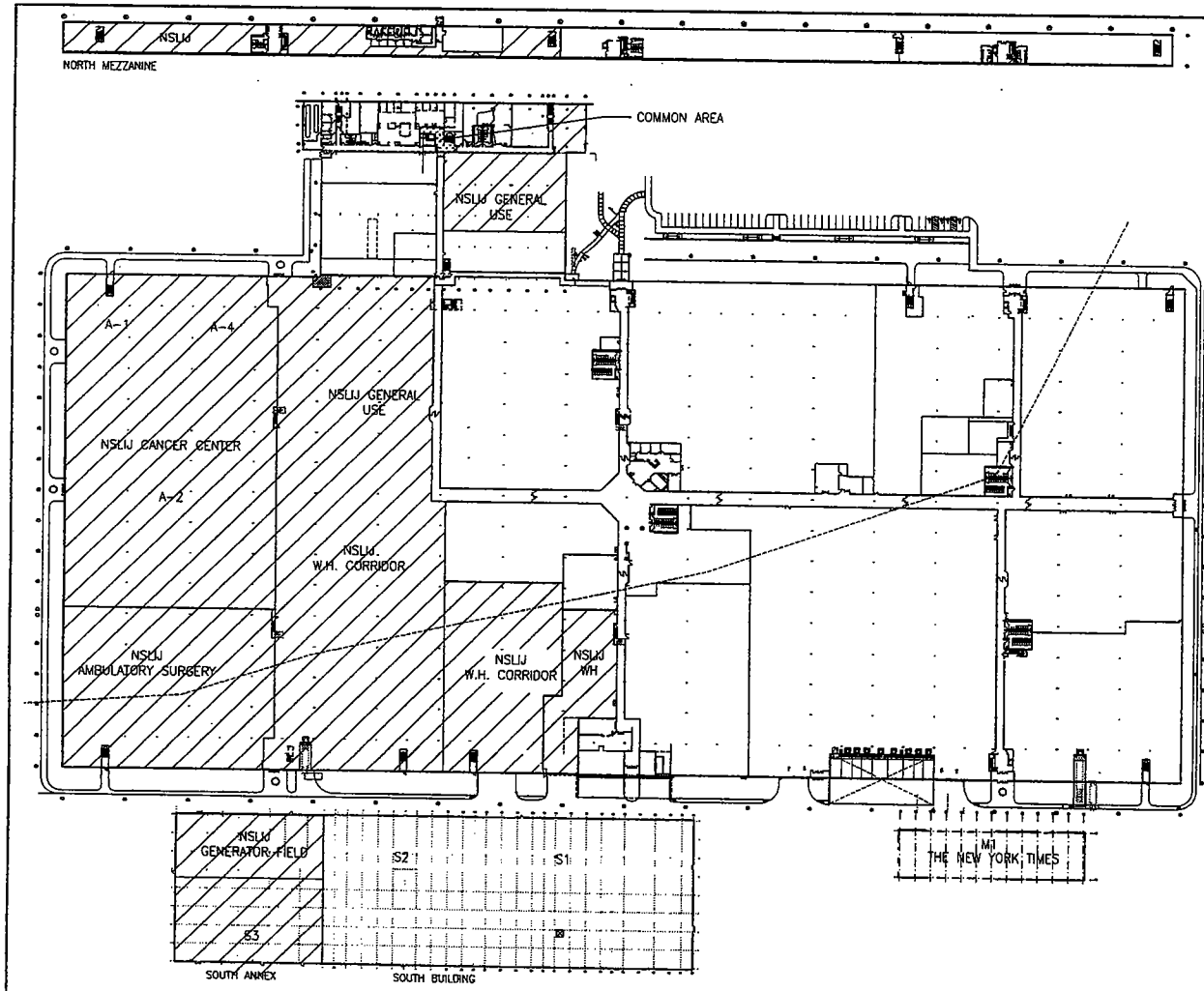
UNIT DESIGNATIONS, COMMON INTEREST

Unit No.	Tax Lot No.	Square Foot Area of Unit*	Common Interest	Common Elements to which Unit Has Access	Limited Common Elements
1	Sec. 8, Block B-18 Lots 300H & 300L	900,116	64.47%	Lobby, sidewalks, roads, etc., per Declaration	Exterior walls, slabs, roofs immediately outside of Units;certain parkign areas, per Declaration
2	Sec. 8, Block B-18 Lots 300H & 300L	495,877	35.53%		

* The square foot area of the Unit is approximate and includes the approximate square foot area of Limited Common Elements that comprise the exterior walls appurtenant to the Unit. The Limited Common Elements (if any) appurtenant to a particular Unit are listed in the last column of this Schedule.

SCHEDULE C

FLOOR PLANS OF UNITS



DIMENSION OF UNITS

THE UNITS WERE MEASURED HORIZONTALLY FROM THE INTERIOR FACE OF THE EXTERIOR WALLS OF THE BUILDING ADJACENT TO A PARTITION OF THE UNIT (OR FROM THE EXTERIOR OF THE GLASS FORMING A PART OF THE UNIT) TO THE INTERIOR FACE OF THE OPPOSITE EXTERIOR WALLS OF THE BUILDING, OR TO THE CENTER OF THE DRYWALL PARTITIONS SEPARATING THE UNIT FROM ANY OTHER UNIT OR FROM ANY COMMON ELEMENTS; AND VERTICALLY FROM THE TOP OF THE CONCRETE FLOOR SLAB IN EACH OF THE LOWEST PARTITIONS OF THE UNIT UP TO THE UNDERSIDE OF THE ROOF OF THE BUILDING WHICH IS ADJACENT TO THE UNIT. FOR THE PURPOSE OF MEASUREMENTS SET FORTH IN THE SCHEDULES TO THIS DECLARATION, COLUMNS, MECHANICAL PIPES, SHAFTS, SHAFTSWAYS, CHASES, CHASEWAYS AND CONDUITS ARE NOT DEDUCTED AND LIMITED COMMON ELEMENTS ARE INCLUDED.

DECLARANT/ SPONSOR

NAME: iPARK LAKE SUCCESS

ADDRESS: 1111 MARCUS AVENUE, LAKE SUCCESS, NY 11021

THIS IS TO CERTIFY THAT THIS PLAN IS AN ACCURATE COPY OF A PORTION OF THE PLANS OF THE BUILDING FILED WITH AND APPROVED BY THE BUILDING DEPARTMENT OF THE TOWN OF NORTH HEMPSTEAD, NY AND FULLY AND FAIRLY DEPICTS THE LAYOUT, LOCATION, UNIT DESIGNATION AND APPROXIMATE DIMENSIONS OF THE UNITS AS BUILT.

ARCHITECT

NOTARIZATION
SWORN TO BEFORE ME THIS

____ DAY OF _____

CONDOMINIUM CERTIFICATION

THE SURVEYOR'S OFFICE, NASSAU COUNTY, HEREBY CERTIFIES THAT:

(A) THE ANNEXED FLOOR PLAN CONSISTING OF THE PLAN AND DECLARATION COVERING 4 FLOORS AND OUT BUILDINGS IN THE PREMISES KNOWN AS:

1111 MARCUS AVENUE CONDOMINIUM
1111 MARCUS AVENUE, LAKE SUCCESS, NY 11021
IN THE VILLAGE OF LAKE SUCCESS AND NORTH HEMPSTEAD, NASSAU COUNTY, STATE OF NEW YORK

(B) THE LOT DESIGNATIONS FOR THE SERARATE UNITS SHOWN THEREON CONFORM TO THE OFFICAL TAX LOT NUMBER DESIGNATIONS FOR SUCH UNIT AS SHOWN ON THE OFFICIAL TAX MAP OF THE VILLAGE OF LAKE SUCCESS AND NORTH HEMPSTEAD, NASSAU COUNTY.

(C) THE BUILDING EXISTED PRIOR TO 1987.

DATE _____

SURVEYOR
REAL PROPERTY ASSESSMENT BUREAU
SURVEYING DIVISION

iPark

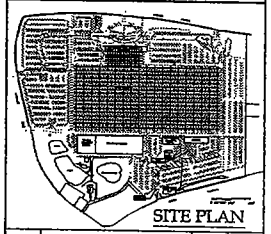
CUSHMAN & WAKEFIELD.
See beyond the expected.

LEGEND

UNIT 1 - 920,059 S.F.

UNIT 2 - 475,702 S.F.

SECTION: 8
BLOCK: 818
LOTS: 300H and 300L



SITE PLAN

No.	Revision	Date	By
1	ISSUED FOR PERMIT	9/28/06	AJT

TPG ARCHITECTURE

Project
1111 MARCUS AVENUE
CONDOMINIUM
LAKE SUCCESS

Drawing Title
CONDOMINIUM PLAN
iPARK
SHEET 2 OF 2

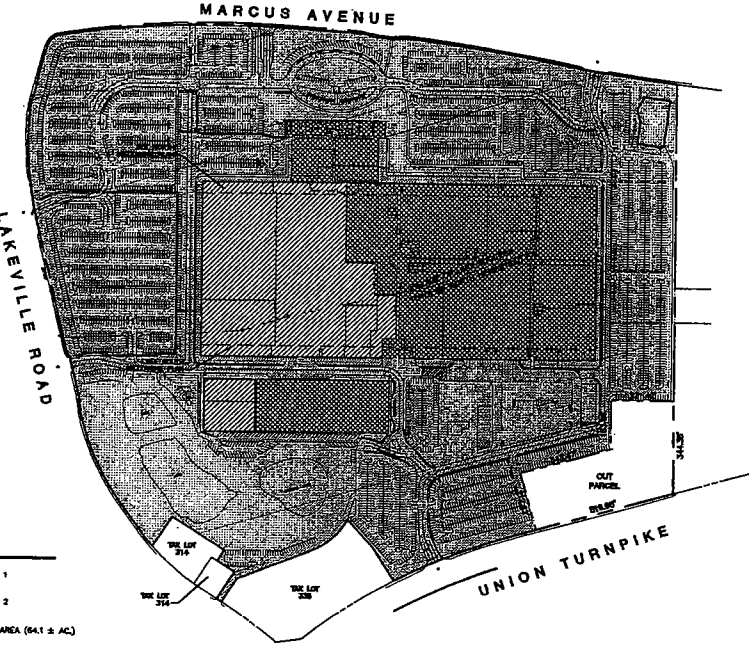
Project No.	Scale
3005047-00	NTS
Drawn By	Date
MMC	7-10-06

TPG Architecture, LLP
TPG Long Island, LLC
201 North Service Road, Suite 400
Melville, New York 11747
631 247 2300
FAX 631 547 7201
www.tpgarchitecture.com

Seal

Floor
01

Drawing No.
CP

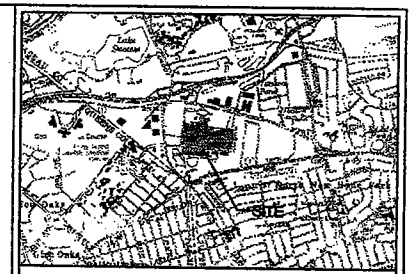


NORTH MEZZANINE PLAN

SOUTH MEZZANINE PLAN

PLOT PLAN

NOTE:
NOTES TO ARCHITECTURAL FLOOR PLANS PREPARED BY TPO ARCHITECTURE, LLP FOR TAX UNITS 1 & 2



DECLARANT / SPONSOR

NAME: 1111 MARCUS AVENUE CONDOMINIUM

ADDRESS: 1111 MARCUS AVENUE
LAKE SUCCESS, NEW YORK 11042

NCTM DATA – SECTION 8, TAX BLOCK 9–18, LOTS 300H & 300L

CONDOMINIUM OFFERING FILED DATE: _____

CONDOMINIUM PROSPECTUS NO: _____

COUNTY ASSESSOR'S CERTIFICATION

THE ASSESSOR'S OFFICE OF NASSAU COUNTY, HEREBY CERTIFIES THAT:

(A) THE ANNEXED FLOOR PLANS CONSISTING OF PAGES COVERING 2 FLOORS IN THE PREMISES KNOWN AS:

1111 MARCUS AVENUE CONDOMINIUMS
1111 MARCUS AVENUE
LAKE SUCCESS, NEW YORK 11042
IN THE VILLAGE OF LAKE SUCCESS AND
THE TOWN OF NORTH HEMPSTEAD
NASSAU COUNTY, STATE OF NEW YORK

(B) THE TAX DESIGNATIONS SHOWN FOR THE SEPARATE UNITS SHOWN HEREIN CONFORM TO THE OFFICIAL UNIT DESIGNATION FOR SUCH UNITS AS SHOWN ON THE OFFICIAL TAX MAPS OF THE COUNTY OF NASSAU, STATE OF NEW YORK.

DATE _____ _____
ASSESSOR
DEPARTMENT OF ASSESSMENT

(C) THE PROPERTY SHOWN ON THIS MAP APPEARS ON THE LAND AND TAX MAP OF THE COUNTY OF NASSAU AS SECTION 8, BLOCK 9–18, LOTS 300H & 300L

DATE _____ VERIFIED: _____

MAP NOTES

1. EXEMPTION FROM SUBDIVISION PLANS REQUIREMENTS PURSUANT TO Real Property Law SECTION 334 a (X)(C). AS PER LETTER DATED AUGUST 22, 2006 FROM THE NASSAU COUNTY PLANNING COMMISSION. COPY ANNEXED.

TAX UNIT DESIGNATION

TITLE COMPANY CERTIFICATION

THIS IS TO CERTIFY THAT ALL TAXES AND ASSESSMENTS WHICH ARE LIENS PRIOR TO _____ AGAINST PREMISES SHOWN HEREON OR ANY PART THEREOF HAVE BEEN PAID.

_____ _____
DATE

MAP OF "1111 MARCUS AVE CONDOMINIUM"

INC. VILLAGE OF LAKE SUCCESS
AND TOWN OF NORTH HEMPSTEAD
NASSAU COUNTY, NEW YORK

SCALE: 1"=200' DATE: MAY 15, 2006

- REVISED JULY 7, 2006
- REVISED AUGUST 21, 2006
- REVISED AUGUST 25, 2006

GRAPHIC SCALE
(IN FEET)

CAMERON ENGINEERING & ASSOCIATES, LLP

SCHEDULE D TO DECLARATION

BY-LAWS

of

1111 MARCUS AVENUE CONDOMINIUM

1111 Marcus Avenue
Lake Success, New York

Table of Contents

BY-LAWS

1111 MARCUS AVENUE CONDOMINIUM
1111 Marcus Avenue
LAKE SUCCESS, NEW YORK

1. General

Section 1.1 Purpose. The purpose of these By-laws is to set forth rules and procedures governing the operation and conduct of 1111 Marcus Avenue Condominium (hereinafter the "Condominium"). The Condominium comprises Property situated in the County of Nassau and State of New York, as more particularly defined and described in the Declaration to which these By-laws are appended as Schedule D (hereinafter the "Declaration"). All capitalized terms used in these By-laws and not defined herein shall have the meanings ascribed to them in the Declaration (and other defined terms as defined in the Declaration shall have the meanings herein as defined in the Declaration) and if no definition is contained therein, then as ascribed to them in the Condominium Act.

Section 1.2 Applicability of By-Laws. The provisions of these By-laws are applicable to the Property and to the use and occupancy thereof. The term "Property" as used herein shall include, in addition to the Land and all improvements thereon (including the Units and the Common Elements) all easements, rights and appurtenances belonging thereto, and all other property, personal or otherwise intended for use in connection with the Property (excluding, however, personal property or other property that belongs to a Unit Owner or tenant or other occupant or user of a Unit), all of which is intended to be submitted to the provisions of the Condominium Act.

Section 1.3 Application. All present and future Unit Owners, and mortgagees, lessees and occupants of Units and their employees, agents and/or licensees, and any other persons who may use the facilities of the Property in any manner are subject to these By-laws, the Declaration and rules and regulations now or hereafter promulgated or amended by the Condominium Board (hereinafter the "Rules and Regulations").

Section 1.4 Office. The principal office of the Condominium shall be located at the Property.

Section 1.5 Title to Units. Title to Units may be taken in the name of an individual, or in the name of two or more persons as tenants in common or as joint tenants, or as tenants by the entirety, or in the name of a corporation, partnership, limited liability company, fiduciary or any other entity entitled to own real property in the State of New York.

2. Board of Managers

Section 2.1 Number.

a. The affairs of the Condominium shall be governed by the Board of Managers. The Board of Managers shall consist of three members. Two of these members shall represent the Unit 1 Owner (the "Unit 1 Members"), and the other member shall represent the

Unit 2 Owner (the "Unit 2 Member") (subject, however, to the right of the Unit 1 Owner to permit one person to serve the function of its two Board Members in certain instances described in this Section 2.1). The Board of Managers shall be established upon the recording of the Declaration in the Recording Office.

b. The affairs of the Unit 1 Area shall generally be governed by the Unit 1 Owner, and the affairs of the Unit 2 Area shall generally be governed by the Unit 2 Owner.

c. Although the Unit 1 Owner shall have the right to appoint two Board Members, it may, at its option, appoint only one person to serve both of its positions. In such event, the single appointee shall at a duly held meeting of the Board of Managers represent the seats and cast the vote of the two Board Members whose seats such person is filling.

Section 2.2 Qualification. A Board member can be an individual or any legal person or entity designated by the Unit Owner selecting such Board member

Section 2.3 Designation and Term of Office. Board members shall be designated by Unit Owners and shall serve until removed by the Unit Owner. If terms are deemed to expire as a matter of law, or if elections are required by law, such members shall be deemed reappointed or re-elected until written notice of removal from the Unit Owner or resignation by the Board member.

Section 2.4 Removal, Resignation and Disqualification of Members.

a. Members of the Board selected by the a Unit Owner may only be removed by such Unit Owner

b. Any member of the Board of Managers may resign at any time by giving written notice to the other members of the Board or to all Unit Owners. Unless otherwise specified in the letter of resignation, the resignation shall take effect immediately upon receipt thereof by the Board or the Unit Owners, and acceptance of the resignation shall not be necessary to make it effective.

c. Notwithstanding other provisions of these By-laws, a member may be removed by the Unit Owner who did not select the member because of performance of an illegal act committed against the Condominium or the other Unit Owner. A dispute with respect to such a removal shall by decided by Arbitration.

Section 2.5 Vacancies. Vacancies on the Board shall be filled by the Unit Owner entitled to appoint a member to the vacated seat, and such member must be replaced within a reasonable time after such vacancy occurs.

Section 2.6 Powers and Duties.

(a) Board of Managers, Generally.

Subject to the provisions and guidelines set forth in the Condominium Instruments, including the general principle that the Unit 1 Owner shall operate and govern the

Unit 1 Area and the Unit 2 Owner shall operate and govern the Unit 2 Area, the Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and the General Common Elements and may do all such acts and things except as by law or by the Declaration or by these By-laws have not been or may not be delegated to the Board by the Unit Owners. In this capacity only, and only to the extent to which it pertains, the Board may take all such actions and make all such determinations pertaining to the General Common Elements as do not affect in an adverse manner the safe and efficient operation of the Units or the Common Elements, the normal conduct of business of the Owner, tenant or other occupant of a Unit, or the use of the Units or the Limited Common Elements for the purpose for which they were intended. Disputes with respect to the scope and subject of the Board's power and responsibility shall be determined by Arbitration.

(1) The Unit 1 Owner and the Unit 2 Owner shall generally cooperate in the discharge of their obligations where coordination is necessary or prudent (a "Common Unit Matter"), for example, if appropriate in the repair, maintenance or replacement of a Common Roof. The Unit Owners shall generally ask the Condominium Board to coordinate Common Unit Matters, and any dispute with respect to a Common Unit Matter shall in the first instance be submitted to the Board for resolution, and failing that, to Arbitration.

(2) Subject to the foregoing, the duties and powers of the Board of Managers shall include, but shall not be limited to, the following, all of which shall be exercised on a reasonable basis and in a reasonable manner in accordance with the guidelines and standards included in these By-laws:

(a) Maintenance, repair, replacement, cleaning and sanitation of the General Common Elements.

(b) Determination, assessment and levying of annual Common Charges (although the Board may levy such charges other than annually) to cover the cost of Common Expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the General Common Elements. The Board may increase the annual Common Charges or vote a special assessment in excess of that amount, if required to meet additional expenses.

(c) Collection, use and expending of Common Charges collected from Unit Owners to pay for Common Expenses.

(d) Adoption, distribution, amendment and enforcement of Rules and Regulations governing the use and operation of the General Common Elements.

(e) Maintenance of insurance against loss by fire or other casualties normally covered under broad-form fire and extended coverage insurance policies as written in New York, and the application of the proceeds of any such insurance to restoration, all as more fully set forth in Article 6 of these By-laws.

(f) Maintenance of insurance against liability for personal injury and death for accidents and the defense of any actions brought by reason of injury or death

to person, or damage to property, and not arising by reason of any act or negligence of any Unit Owner, all as more fully set forth in Article 6 of these By-laws.

(g) Employment and termination of employment of employees and independent contractors, purchasing supplies and equipment, entering into contracts and agreements, and generally having the powers of manager in connection with the items set forth in this Article 2.

(h) Opening and maintaining of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(i) Purchasing or leasing or otherwise acquiring in the name of the Condominium or its designee, corporate or otherwise, Units offered for sale or lease, or Units surrendered by their Owners to the Condominium, subject to the provisions of Section 9.2 of these By-laws.

(j) Purchasing a Unit at foreclosure or other judicial sale in the name of the Board, or its designee, corporate or otherwise, on behalf of all Unit Owners, subject to the provisions of Article 9 of these By-laws.

(k) Acquiring in the name of the Board, or its designee, corporate or otherwise, on behalf of all Unit Owners, rights and interests in real and personal property for use in connection with the operation of the General Common Elements, provided all Unit Owners so consent.

(l) Selling, leasing, mortgaging, repairing, maintaining, voting the votes appurtenant to, or otherwise dealing with Units acquired by, and subleasing Units leased by, the Board or its designee, corporate or otherwise.

(m) Organizing corporations or other entities to act as designees of the Board on behalf of all Unit Owners, in acquiring title to or leasing Units or rights and interests in real and personal property.

(n) Making of repairs, additions and improvements to or alterations or restoration of the Property in accordance with the other provisions of these By-laws after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

(o) Subject to the provisions of the Condominium Instruments, entering into and upon the Units when necessary and with as little inconvenience to the Unit Owners as reasonably possible in connection with the maintenance, care and preservation of the Property.

(p) Establishing reasonable reserves and/or working capital for the repair and replacement of General Common Elements or for other purposes within the responsibility of the Board.

(q) Leasing of portions of the General Common Elements and/or granting of licenses for the use of General Common Elements, in a manner not inconsistent with the rights of Unit Owners.

(r) Bringing actions against, and defending actions brought by, one or more Unit Owners and pertinent to the operation of the Condominium, subject to the provisions of Section 339-dd of the Condominium Act.

(s) Borrowing money when required in connection with the operation, care, upkeep and maintenance of the General Common Elements, provided, however, unanimous consent of Unit Owners is first obtained.

(t) Levying fines against Unit Owners for violations of the Rules and Regulations, which fines shall be considered Common Charges payable by the Unit Owner against whom they are assessed, provided said fines are reasonable and uniformly applied. A Unit Owner who disputes the imposition of a fine as contrary to the foregoing guidelines, may submit the dispute to Arbitration pursuant to Article 11 of these By-laws, provided however, the Unit Owner first pays the disputed sum (which payment may be marked "paid under protest").

(u) Collection of delinquent assessments by suit or otherwise, abatement of nuisances and the enjoinment and/or seeking of damages from Unit Owners for violations of the Rules and Regulations.

(v) Notwithstanding other provisions regarding the right of Unit Owners to administer matters affecting their respective Areas, external signage shall be subject to the prior approval of the Board, not to be unreasonably delayed or withheld, and in any event, the Unit 2 Owner may not be restricted in this regard further than would otherwise have been permitted to the Tenant under the LIJ Lease within the Unit 2 Area pursuant to certain provisions of the LIJ Lease, as set forth in Exhibit E to the Declaration. Disputes with respect to permitted signage shall be resolved by Arbitration.

(w) The Board, on behalf of the Unit Owners, shall be deemed the beneficiary of and the party with authority to enforce easements and other agreements with respect to portions of the Property, personal property, facilities and equipment located in or servicing (i) solely the General Common Elements, (ii) both General Common Elements and the Unit 1 Area and/or the Unit 2 Area, or (iii) both the Unit 1 Area and the Unit 2 Area (such easements and agreements described in this sentence are referred to as "Common Agreements"). Common Agreements shall be deemed to include, without limitation (A) the Reciprocal Easement Agreement; (B) those certain easements and indemnities deriving from that certain "Agreement of Environmental Remediation and Indemnity Pursuant to Article 9 of November 8, 1999 Agreement for Purchase and Sale" made as of March 20, 2000, originally between Lockheed Martin Corporation, as Seller, and i.park Lake Success, LLC, as Purchaser; and (C) warranties and guarantees with respect to a Common Roof. The Board and the Unit Owners shall cooperate in the application of Common Agreements. Each Unit Owner shall comply with the requirements of all Common Agreements that affect its Area, including without limitation the performance of maintenance necessary to keep a warranty in force. No Unit Owner shall do

anything to adversely affect the application or viability of a Common Agreement, and each Unit Owner shall be responsible for the diminution of rights and any loss or damage (for example, the loss of a warranty on a Common Roof) suffered or reasonably anticipated (including, without limitation the costs and expenses of repairs or of purchasing a substitute, replacement or additional warranty) by the Board or the other Unit Owner caused by an act of the Unit Owner which is not mandated by or consented to in writing by the Board.

b. Units. Generally.

The Unit 1 Owner shall have the powers and duties necessary for the administration of the affairs of the Unit 1 Area, and the Unit 2 Owner shall have the powers and duties necessary for the administration of the affairs of the Unit 2 Area. In this capacity, each Unit Owner may take all such actions and make all such determinations pertaining to its respective Area, as do not affect in a material and adverse manner the safe and efficient operation of the other Unit or the Common Elements, the normal conduct of business of the Owner, tenant or other occupant of a Unit, or the use of the Units, the Common Elements or the Limited Common Elements, for the purpose for which they were intended. Disputes in such regard shall be determined by the Condominium Board and failing that, by Arbitration.

c. Action by Unit Owner. Any action required or permitted to be taken pursuant to the provisions of these By-laws or the Declaration by a Unit Owner may, if permitted by law, be taken by the Unit Owner in its own name or, with the prior written consent of the Board, which consent shall not be unreasonably withheld or delayed, in the name of the Board, or if required by law, shall be taken by the Board of Managers (at the request of the Unit Owner, and in such event the Unit Owner shall indemnify and hold the Board and the other Unit Owner harmless against any liability and all claims, damages, costs and expenses in connection with such action, as if such acts had been performed by the Unit Owner in the first instance). The Condominium Board shall, upon request, execute, acknowledge and deliver any and all proper instruments, documents or applications in connection with any permitted actions taken in the name of the Board, reasonably required to effectuate the permitted action. Disputes as to whether such documentation must be executed shall be resolved by Arbitration.

Section 2.7 Managing Agent and Manager.

(a) The Board of Managers may employ for management of the General Common Elements of the Condominium a managing agent and/or a manager (in either instance, a "Condominium Managing Agent") at a compensation established by the Board, to perform such duties and service as the Board shall authorize. In this regard, the Board may engage a Condominium Managing Agent that is a Unit Owner or is an affiliate of a Unit Owner at the Condominium, provided the company or individual so engaged has demonstrated experience in managing properties comparable to the Condominium, and the agent's fee for such services is not greater than that which would be charged by a first class outside management company or manager acting at arm's length (a "reasonable fee"). The Condominium Managing Agent engaged by the Board with respect to the Condominium may be the same managing agent or manager engaged by either or both of the Unit Owners.

(b) Unless a separate independent Condominium Managing Agent is required by unanimous consent of the Unit Owners or by the voluntary requirement of the Unit 1 Owner, (x) the Condominium Managing Agent shall manage the entire Condominium, including the General Common Elements, the Unit 1 Area and the Unit 2 Area, including without limitation the Parking Structure, and shall be entitled to reasonable fees payable as part of the Common Expenses (and such additional fees as would be charged directly to a Unit Owner); and (y) the Condominium Managing Agent shall be the Unit 1 Owner or its affiliate or designee. In discharging its responsibilities in this regard, it is understood that the Condominium Managing Agent may in turn subcontract and employ professional management to discharge some or all of such responsibilities.

(c) Notwithstanding the provisions of the preceding subparagraph (b) to the contrary, if within 60 days after its acquisition of title to Unit 2 (time being of the essence with respect to such 60-day period), the Tenant under the LIJ Lease gives written notice to the Condominium Board of its requirement for separate management, then the Condominium Managing Agent shall not manage the Unit 2 Area, which then, subject to the provisions of the Condominium Instruments, shall be under the management of the Unit 2 Owner (or any agent who the Unit 2 Owner may hire at its sole cost and expense), and the cost of the Condominium Managing Agent included in the Common Charges of the Unit 2 Owner shall only include such amounts as pertain to management of the General Common Elements or such amounts as are otherwise specially chargeable to the Unit 2 Owner.

(d) The Unit Owners shall cooperate reasonably in connection with the management of the Parking Structure, with disputes to be resolved by Arbitration.

Section 2.8 Regular Meetings.

Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by the Board of Managers. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers, in writing by mail, personal delivery, telecopy or telegraph, at least three (3) business days prior to the day named for such meeting. Unless required by law, both Unit Owners and/or the Board members may elect not to have meetings, and none shall be required.

Section 2.9 Special Meetings. Special meetings of the Board of Managers may be called by any officer of the Board or any Unit Owner on three (3) business days' notice to each member of the Board of Managers, as applicable, given in writing by mail, personal delivery, telecopy, fax or telegraph, which notice shall state the time, place and purpose of the meeting. A specific agenda of items to be addressed at any such special meeting shall be attached to and delivered with the notice of the meeting.

Section 2.10 Waiver of Notice: Telephone Participation.

a. Any member of the Board of Managers may at any time waive notice of any meeting of the Board of Managers, and such waiver shall be deemed equivalent to the giving of such notice. Attendance at any meeting of the Board shall constitute a waiver of notice by him or her of the time and place thereof.

b. Any one or more members of the Board, or any committee thereof, may participate in a meeting of the Board, or any committee thereof, by means of a telephone, conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

c. If all the members of the Board of Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 2.11 Quorums, Adjournments and Determinations.

a. Except as otherwise set forth in these By-laws, all determinations of the Board of Managers shall be made by a majority of members at a meeting at which a quorum is present. At all meetings of the Board of Managers the presence of at least two members of the Board shall constitute a quorum.

b. If a meeting of the Board of Managers is duly called and at the date initially scheduled for that meeting there shall be less than a quorum present, the attending member(s) of the Board of Managers may adjourn the meeting. If the Unit Owners whose Board Members were absent from the initially scheduled meeting are also not represented by any of their Board Members at the first adjournment meeting, the attending Board Members shall be deemed to constitute a quorum and may conduct business as the Board of Managers, taking action as the Board in accordance with the procedures described in the last sentence of this Section 2.11(b). If at the first adjournment meeting the Board Members who called the adjournment meeting are not present for the purpose of a quorum and the Board Members who were not present for the purpose of a quorum at the initially scheduled meeting are present, the attending Board Members may adjourn the meeting. If the Board Members who were not present at the first adjournment meeting for the purpose of a quorum are not present for the purpose of a quorum at the second adjournment meeting as well, the attending Board Members shall be deemed to constitute a quorum and may conduct business at that second adjournment meeting as the Board of Managers, taking action as the Board in accordance with the procedures described in the last sentence of this Section 2.11(b).

c. Notice of the date, time and location of any adjournment meeting of the Board shall be given in the same manner as notice of regular meetings. Any item of business that could have been discussed at the original meeting, may be discussed at an adjournment meeting. In addition, any specific item of business which was listed on an agenda delivered with the notice of an adjournment meeting, may be transacted at the adjournment meeting without further notice.

d. Any action required or permitted to be taken by the Board of Managers may be taken without a meeting if at least one of the Unit 1 Board Members and the Unit 2 Board Member both consent in writing to such action, and the writing or writings reflecting such consent are filed with the records of the proceedings of the Board.

Section 2.12 Fidelity Bonds. The Board of Managers may obtain adequate fidelity bonds for all members of the Board of Managers, officers of the Condominium,

employees of the Condominium, the managing agent handling or responsible for Condominium funds, and the employees of such managing agent(s). The premiums on such bonds shall constitute a Common Expense.

Section 2.13 Compensation. No member of the Board of Managers shall receive any compensation from the Condominium for acting as such, unless these By-laws are amended to provide otherwise.

Section 2.14 Liability of the Board of Managers.

a. The members of the Board of Managers and the officers of the Board of Managers, shall not be liable as Board Members to the Unit Owners except for their own individual willful misconduct or bad faith actions or bad faith failures to act. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Managers and the officers of the Board of Managers against all liability to others arising from their acts as, or by reason of the fact that such person was, a member of the Board of Managers or an officer of the Board of Managers, as applicable, except with respect to liability arising from willful misconduct, or bad faith actions or bad faith failures to act. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Board of Managers within the scope of their authority. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the members of the Board of Managers shall be limited to such proportion of the total liability thereunder as its Common Interest bears to the Common Interests of all the Unit Owners in the Common Elements.

b. Every agreement made by the Board of Managers or by the Managing Agent or by the Manager or otherwise on behalf of the Board of Managers shall provide that the members of the Board of Managers, or the Managing Agent, or the Manager, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners, if applicable), and that any liability of a Unit Owner thereunder shall be limited to such proportion of the total liability thereunder as said Unit Owner's Common Interest bears to the interests of all Unit Owners in the Common Elements (although as between Unit Owners, the sharing of such expenses by them shall be governed by the manner in which such expense is otherwise split as a Common Expense).

3. Unit Owners

Section 3.1 Annual Meetings.

The first annual meeting of all Unit Owners shall be held on the last Tuesday in May in the 12-month period immediately following the recording of the Declaration. Thereafter, annual meetings of the Unit Owners shall be held annually on the last Tuesday in May as well. If in any given year the date for the annual meeting set in accordance with the foregoing shall fall on a national holiday, the meeting shall be held on the next business day. To the extent permitted by law, the Unit Owners may forego such meetings unless one of them requires such a meeting, and if such meetings are required, then they shall be deemed to have taken place annually with no objection by these Unit Owners.

Section 3.2 Place of Meetings. Meetings of Unit Owners shall be held at the principal office of the Condominium or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Managers.

Section 3.3 Special Meetings.

a. It shall be the duty of the President and the Vice President of the Board of Managers to call a special meeting of all Unit Owners if so directed by resolution of the Board of Managers or upon a petition signed and presented to the Secretary of the Condominium by a Unit Owner.

b. The notice of any such special meeting of the Board shall state the time and place of such meeting and the purpose thereof, and shall include a specific agenda of items to be addressed at such meeting. No business shall be transacted at a special meeting, except as stated in the notice and agenda.

Section 3.4 Notice of Meetings. It shall be the duty of the Secretary of the Condominium, to mail a notice of each annual or special meeting of the Unit Owners, at least ten (10) but not more than forty (40) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at the Property or at such other address as such Unit Owner shall have designated by notice in writing to the applicable Secretary, and to all Mortgagees who have requested same. A specific agenda of items to be addressed at any special meeting of the Unit Owners shall be attached to and delivered with the notice of the meeting. If the purpose of any special meeting shall be to act upon a proposed amendment to the Declaration or to these By-laws, the notice of meeting shall be mailed at least thirty (30) days prior to such meeting and the notice shall be accompanied by the text of the proposed amendment. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice. The Unit Owners may waive the requirement of such notice and the presentation of an agenda.

Section 3.5 Adjournment of Meetings. If any duly called meeting of Unit Owners cannot be held because a quorum (as defined in these By-laws) has not attended, the Unit Owner present at such meeting, either in person or by proxy, may adjourn the meeting to a time at least three (3) business days after the time the original meeting was called, subject, however, to the provisions of Section 3.10 of these By-laws. Notice of the date, time and location of the adjournment meeting shall be given to each Unit Owner in writing by mail, personal delivery, telecopy or telegraph, at least three (3) business days prior to the date of the adjournment meeting.

Section 3.6 Order of Business. The order of business at all meetings of Unit Owners shall be as follows, but such agenda may be waived or altered by the Unit Owners:

1. Roll call.

2. Proof of notice of meeting.

3. Reading of minutes of preceding meeting.

4. Reports of officers;

5. Report of Board of Managers.

6. Reports of committees.

7. Installation of the Board Members, if applicable.

8. New Business.

Section 3.7 Proxies. Each Unit Owner shall be entitled to vote by proxy at any meeting of Unit Owners. The designation of any such proxy shall be made in writing and filed with the Secretary at or prior to the meeting at which the proxy is to be used. Such proxy shall be valid only for such meeting or subsequent adjournment meetings thereof. Such proxy shall, however, be revocable at any time (i) by written notice to the Secretary by the Owner so designating, or (ii) by verbal notice given in person by the Unit Owner to the Secretary. A notation of such proxy shall be made in the records of the meeting at which it is used. The holder of a Unit Owner's proxy need not be a Unit Owner.

Section 3.8 Voting.

a. Each Unit Owner shall have the number of votes provided in the Declaration. Votes attributable to one Unit may not be split or cumulated.

Section 3.9 Majority of Unit Owners. As used in these By-laws the term "majority of Unit Owners" shall mean the vote of both the Unit 1 Owner and the Unit 2 Owner.

Section 3.10 Quorum. Except as provided otherwise in these By-laws, the presence in person or by proxy of both Unit Owners shall constitute a quorum at meetings of Unit Owners

Section 3.11 Binding Nature of Majority Vote. Except where otherwise provided by law, the Declaration or these By-laws, at all meetings of the Unit Owners at which a quorum is established, the vote of both Unit Owners shall be binding for all purposes. The term "majority of Unit Owners," as used in this Section 3.11, shall have the meaning ascribed in Section 3.9 of these By-laws.

Section 3.12 Action Without Meeting. Any action required or permitted to be taken by all Unit Owners may be taken without a meeting if the number of Unit Owners required by the Declaration, these By-laws or applicable law consents in writing to the adoption of a resolution authorizing such action and the writing is filed with the records of the Condominium.

4. Officers

Section 4.1 Designation.

The principal officers of the Board of Managers shall be the President, the Vice President, the Secretary and the Treasurer. More than one office may be held by one person. The officers of the Condominium shall be appointed at a Board meeting and shall serve until their successors are appointed and installed.

Section 4.2 Removal, Resignation, Vacancies.

a. The Board of Managers shall have the right to remove for misfeasance, malfeasance, or any other substantial and adverse cause, any officer of the Board of Managers, in accordance with this Section 4.2. If the Board determines an officer should be removed, notice of the proposed removal shall be given in writing to the officer. Any officer whose removal has been proposed by the Board in accordance with the foregoing, shall have the right to appear before a special meeting of the Board, to hear the charges against him or her and to be heard in response, before the removal may become effective. If the officer whose removal has been proposed believes removal is improper and desires to retain the office held, the officer must request such a hearing promptly. If the officer's hearing before the Board results in affirmation of the Board's determination to remove the officer from office, the officer shall be removed from office, effective immediately.

b. Any officer removed for cause by the Board pursuant to the foregoing, shall be replaced by the Board.

c. Officers of the Condominium may resign at any time by written notice to the appropriate entity. Unless otherwise specified in the letter, the resignation shall take effect immediately.

d. If a Board Member resigns or is removed from the Board, that person, if then an officer, ceases to be an officer of the Condominium.

e. Offices left vacant by reason of removal, resignation or otherwise, shall be filled promptly by the Board.

Section 4.3 Officers of the Board of Managers.

a. President. The President of the Board of Managers shall be the chief executive officer of the Condominium. He or she shall preside at all meetings of all the Unit Owners and of the Board of Managers. The President shall have all of the general powers and duties incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York.

b. Vice President. The Vice President of the Board of Managers shall take the place of the President and perform the President's duties as head of the Board of Managers only in the event of death or permanent incapacity of the President, if the Unit Owners have not otherwise selected a new President within a reasonable time thereafter. If neither the President nor the Vice President is able to act, the Board of Managers shall appoint some other person to act in the place of the President on an interim basis.

c. Secretary. The Secretary of the Board of Managers shall (i) keep the minutes of all meetings of the Unit Owners and of the Board of Managers, (ii) record all votes and the minutes of all proceedings in a book to be kept for that purpose, (iii) give or cause to be given, notice of all meetings of all Unit Owners and all meetings of the Board of Managers, (iv) have charge of such books and papers as the Board of Managers may direct, and (v) in general, perform all the duties of a secretary of a stock corporation organized under the Business Corporation Law of the State of New York. The Secretary shall prepare and have available at each meeting of all Unit Owners a list in alphabetical order of all Unit Owners, together with the Common Interest appurtenant to their Unit.

d. Treasurer. The Treasurer of the Board of Managers shall have the responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements. The Treasurer shall be responsible for the preparation of all required financial data, for the deposit of all moneys and other valuable effects in the name of the Board of Managers, in such depositories as may from time to time be designated by the Board of Managers, and he or she shall, in general, perform all the duties of a treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

5. Common Expenses, Charges and Assessments - Determination, Payment, Collection and Accounts

Section 5.1 Determination of Common Expenses and Fixing of Common Charges.

a. With respect to each fiscal year, the Board of Managers shall fix and determine the budget representing the sum or sums the Board believes to be reasonably necessary and adequate for the continued operation of the General Common Elements of the Condominium and shall send a copy of the proposed budget to all Unit Owners.

b. In its discretion, the Board may bill the total annual requirements constituting estimated Common Expenses as a single sum or in monthly or other installments and/or may charge certain unanticipated or one-time or irregularly occurring items as incurred.

c. In the event of casualty to the Common Elements for which insurance proceeds under policies maintained by the Board are forthcoming, the Board may levy and assess as a special assessment, an amount anticipated to be needed to restore or repair the Common Elements, prior to receipt of such proceeds. Upon receipt of such proceeds, the Board will reimburse Unit Owners the amounts they paid as the special assessment, or such lesser amount as shall be necessary to compensate for receipt of proceeds in an insufficient amount to cover the cost of repair or restoration. In addition, to the extent an insufficient amount of insurance proceeds are received to cover the actual cost of repair or restoration, the Board may levy and assess as a special assessment, the amount needed to cover such shortfall in insurance proceeds. Special assessments, should such be required for any reason, shall be levied and paid in the same manner as hereinabove provided for regular Common Charges. Failure to pay special assessments accordingly shall be treated in the same manner as failure to pay Common Charges. In the event a casualty affects only the Unit 1 Area or only the Unit 2 Area, rather than the

General Common Elements, the Owner of the Unit in the affected Area shall receive such proceeds and perform such repair, but if such Unit Owner fails to do so on a timely basis, then the Board shall have the right to impose the special assessments referred to in this Section 5.1(c), only against the Owners of Units in the affected Area.

Notwithstanding any provisions of this subsection (c) or other provisions of the Condominium Instruments to the contrary, Common Expenses or assessments of all Unit Owners which need to be charged because of insufficient insurance proceeds to restore or for payment of the portion of a deductible shall be split between the Unit Owners as provided in the Condominium Instruments.

d. The Common Expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provisions of these By-laws, and such amounts as the Board of Managers may deem proper for repairs, reserves, replacements, improvements, betterments, maintenance and other operating expenses of the General Common Elements, as well as charges to cover deficits from prior years. The Common Expenses may also include such amounts as may be required for the purchase or lease by the Condominium or its designee, corporate or otherwise, of any Unit which is to be sold at a foreclosure or other judicial sale. Common Expenses shall also include such other items as are stated in these By-laws or in the Declaration to be Common Expenses.

Section 5.2 Accounts.

The receipts and expenditures of the Condominium shall be Common Charges and Common Expenses, respectively, and shall be credited and charged to accounts deemed by the Board of Managers to be reasonably necessary for the prudent operation of the General Common Elements.

The Board shall not be obligated to expend all of the revenues collected in any one accounting period.

Section 5.3 Payment of Common Charges.

a. Unit Owners shall be obligated to pay the Common Charges assessed monthly in advance, or at such other time or times as the Board shall determine. Dissatisfaction with the quantity or quality of maintenance or services furnished to or with respect to the Property shall not be grounds for withholding or failure to pay any Common Charge or special assessment.

b. No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against its Unit subsequent to a sale, transfer or other conveyance of such Unit made by such Unit Owner in accordance with the Declaration and/or these By-laws, and applicable only to the period subsequent to the sale, transfer or other conveyance. A purchaser of a Unit shall be liable for the payment of Common Charges assessed against such Unit prior to the acquisition by him, her or it of such Unit, and a Mortgagee or other purchaser acquiring title to a Unit through foreclosure or by deed in lieu of foreclosure, shall also be liable for the

payment of any Common Charges assessed prior to the foreclosure sale or the conveyance of a deed in lieu of foreclosure.

Section 5.4 Collection of Common Charges and Assessments.

a. The Board of Managers shall advise the Unit Owners of the amount of Common Charges due from each.

b. The Board of Managers shall take prompt action to collect any Common Charge and/or any other assessment previously imposed by the Board due from any Unit Owner which remains unpaid for more than 30 days from the due date for payment thereof, or may delegate to the Unit Owner which has paid its Common Charges, the rights to pursue collection of the unpaid Common Charges from the defaulting Unit Owner.

Section 5.5 Default in Payment of Common Charges and Assessments.

a. In the event any Common Charge or other assessment imposed by the Board of Managers, or any installment thereof, is not paid on the due date, then such payment shall be deemed delinquent.

b. If a Common Charge, or other assessment, or any installment thereof is not paid within 10 days after the due date, the Board of Managers may impose a late charge in such amount as the Board deems reasonable, provided such late charges are uniformly applied.

c. In addition to late charges, if the Common Charge or assessment or any installment thereof is not paid within thirty (30) days after the due date, then (i) such Common Charge or assessment shall bear interest from such due date in such amount as the Board, shall determine, but at no more than the highest legal rate, (ii) the Board may accelerate the remaining installments, if any, and (iii) the Board, may bring legal action against the Unit Owner personally obligated to pay same, foreclose the lien on such Unit granted under these By-laws and/or by the Condominium Act, or otherwise seek to recover the amounts due to the Condominium. The expenses, including attorneys' fees and disbursements, incurred by the Board in any proceeding brought to collect such unpaid Common Charges or assessments, shall be added to the amount of such delinquent Common Charge, assessment or installment thereof, together with late charges and interest.

d. Any amounts collected on account of past due Common Charges or assessments through foreclosure or otherwise, shall be applied in the following order: attorneys' fees and disbursements, other costs of collection, and then Common Charges or assessments, beginning with the Common Charge or assessment due for the longest period together with interest and late charges thereon, and in any event, all Common Charges, together with interest and late charges thereon,

Section 5.6 Foreclosure of Liens for and Other Proceedings to Collect Unpaid Common Charges. In any action brought by the Board of Managers, to foreclose a lien on a Unit because of unpaid Common Charges, the Unit Owner shall be required to pay a reasonable rental for the use of its Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect said rental payments. Once an action to

foreclose a lien for unpaid Common Charges (or any other action or proceeding to collect unpaid Common Charges) is commenced, the Unit Owner shall automatically lose any seat on the Board or any office on the Board theretofore held by the Unit Owner. The Board of Managers, acting on behalf of all Unit Owners shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosing, filing or waiving the lien securing the same.

Section 5.7 Statement of Common Charges. Upon the written request made in good faith for a reasonable purpose by a Unit Owner or its Permitted Mortgagee, or any prospective purchaser or title insurer of such Unit, the Board of Managers, acting through the Condominium Managing Agent, if any, shall promptly furnish a certificate in writing setting forth with respect to such Unit as of the date of such certificate, (i) whether or not the Common Charges due have been paid, (ii) the amount of such Common Charges, including interest and costs, if any, due and payable, and (iii) whether any other amounts or charges are owing to the Condominium (e.g., for the cost of extinguishing a violation of the Declaration, By-laws or Rules and Regulations). A reasonable charge, as determined by the Board of Managers as and when applicable, may be made for the issuance of this certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Board of Managers and any bona fide purchaser, or lender on, or title insurer of, the Unit with respect to which the request was made.

Notwithstanding the foregoing or other provisions of the Condominium Instruments, in the event that one Unit Owner defaults in its obligations to the Board, the Board may assign its rights to collect Common Charges or otherwise to pursue remedies against the Unit Owner directly to the other Unit Owner, in which event the Board shall cooperate with enforcement of the obligations, and the non-defaulting Unit Owner shall be deemed to have such rights and remedies as the Board would otherwise have in the case of such a default, including a direct lien against the Unit owned by the defaulting Unit Owner. In addition, if a Unit Owner is in default to the Board, but the Board does not pursue its rights and remedies against the defaulting Unit Owner, solely because the members of the Board selected by the defaulting Unit Owner vote against or otherwise oppose such enforcement, the non-defaulting Unit Owner shall be deemed to have such rights and remedies to proceed either on behalf of the Board or in its own name and stead against the defaulting Unit Owner, with all the rights and remedies available to the Board, including a direct lien against the Unit owned by the defaulting Unit Owner.

Disputes arising pursuant to this Article 5 shall be determined by Arbitration.

6. Insurance and Insurance Trustee

Section 6.1 Condominium's Insurance.

a. Generally. The Board of Managers shall be required to obtain and maintain as it deems reasonably advisable, to the extent reasonably available: (i) all-risk property insurance insuring the Buildings (but not including furniture, furnishings or other personal property supplied or installed by Unit Owners or installations and fixtures installed by Unit Owners) (such insurance to include flood insurance if the Property is in a "flood hazard area" as

defined below); (ii) liability insurance; (iii) directors' and officers' liability insurance; (iv) a fidelity bond; (v) workers compensation insurance; and (vi) such other insurance as the Board shall deem necessary or desirable from time to time, to the extent available on terms deemed reasonable or necessary by the Board, including but not limited to "umbrella" liability coverage and environmental liability insurance.

b. "All-Risk" Property Insurance. (1) The all-risk policy shall cover the interests of the Board of Managers and all Unit Owners and Permitted Mortgagees. Coverage shall be for the full replacement value of the property covered without deduction for depreciation and including boiler and machinery coverage in its broadest form, excluding the Land, foundations, the personal property of Unit Owners, tenants and occupants of Units, and any equipment installed by or at the direction of any present or prior Unit Owner or tenant or occupant of a Unit and any improvements or alterations made by a present or prior Unit Owner or tenant or occupant of a Unit.

(2) The policy shall have the following provisions, endorsements and coverages to the extent reasonably obtainable: (a) extended coverage, including sprinkler leakage (if applicable), debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage, (b) inflation guard, (c) coverage for loss of Common Charges from Unit Owners forced to vacate because of fire or other insured-against casualty, (d) waiver of any right to claim by way of subrogation against Unit Owners, the Condominium, the members of the Board of Managers the officers of the Condominium, any tenants or the Condominium Managing Agent, and waiver of any defenses based on co-insurance or any invalidity based on acts of the insured, (e) an exclusion from the "no other insurance" clause of individual Unit Owners' policies, so that the insurance purchased by the Board of Managers on behalf of the Condominium shall be deemed primary coverage and any policy obtained by individual Unit Owners, Unit occupants or Mortgagees shall be deemed excess coverage and that coverage obtained by the Board of Managers shall in no event be brought into "contribution" with insurance purchased by individual Unit Owners or Mortgagees; (f) a provision that the policy cannot be cancelled, invalidated or suspended because of the conduct of someone over whom the Condominium Board has no control or because of any failure to comply with any warranty or condition of premises over which the Board has no control, (g) a provision that the policy may not be cancelled (including cancellation for non-payment of premium) or substantially modified without at least 30 days' prior written notice to all of the insureds, including all known Permitted Mortgagees of Units, (h) a provision requiring review at least every two (2) years to assure the sufficiency of coverage, and (i) a provision that adjustment of loss shall be made by the Board of Managers. Any deductible provision shall apply only to each occurrence rather than to each item of damage.

(3) Prior to obtaining any new property insurance policy, the Board of Managers shall obtain an insurance appraisal from a reputable and independent insurance company or from such other source as the Board shall determine to be acceptable, as to the full replacement value (without deduction for depreciation) of the Buildings (exclusive of Land, foundations and improvements made by present or prior Unit Owners, tenants or occupants) for the purpose of determining the amount of all-risk property insurance to be effected pursuant to this Section.

(4) The proceeds of all policies of physical damage insurance shall be payable to the Board if they are $1,000,000 or less and, if in excess of $1,000,000, to an Insurance Trustee (as defined in Section 6.3 of these By-laws) selected by the Condominium Board to be applied for the purpose of repairing, restoring Buildings unless otherwise determined by the Unit Owners as hereinafter set forth. (This $1,000,000 limit shall automatically be increased each calendar year by 5% over the limit of the previous year.) The policy must provide that any right of the insurer to elect to restore damage in lieu of cash settlement may not be exercised without the consent of the Insurance Trustee. The policy shall contain the standard mortgagee clause in favor of each Permitted Mortgagee of a Unit as its interest shall appear, subject, however, to the loss payment provisions in favor of the Condominium Board and the Insurance Trustee as set forth in these By-laws. The obligation to restore or reconstruct after damage due to fire or other casualty supersedes the customary right of a mortgagee to have the proceeds of insurance coverage applied to reduce mortgage indebtedness.

(5) Each Unit Owner and such Unit Owner's Permitted Mortgagee shall be a named insured on the Condominium's all-risk policy and shall receive, at the time of purchase of a Unit and at the time a new policy is obtained or an existing policy is renewed, a certificate evidencing proof of insurance coverage. Duplicate originals of the policy and of all renewals of the policy, together with proof of payment of premiums, shall be furnished to all Permitted Mortgagees of Units requesting the same in writing.

c. Liability. (1) The liability insurance shall cover the Condominium, the Board of Managers, the officers of the Condominium, the Condominium Managing Agent, if any, the Unit 1 Area, the Unit 2 Area, and all Unit Owners, but not the liability of Unit Owners arising from occurrences within such Owner's Unit. The policy shall be written on an occurrence basis and shall include the following endorsements: (i) commercial general liability (including libel, slander, false arrest and invasion of privacy), (ii) personal injury, (iii) medical payments, (iv) cross liability under which the right of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named insured, (v) "severability of interest" precluding the insurer from denying coverage to a Unit Owner because of negligent acts of a member or members of the Condominium Board or of any other Unit Owner, (vi) contractual liability, (vii) water damage liability, (viii) liability for non-owned automobiles, (ix) liability for the property of others, (x) elevator collision, (xi) host liquor liability with respect to events sponsored by the Condominium and (xiii) deletion of the normal products exclusion with respect to events sponsored by the Condominium.

(2) Coverage may not be cancelled (including cancellation for nonpayment of premium), or substantially modified, without at least 30 days' prior written notice to all of the insureds, including all Permitted Mortgagees of Units as shown on the records of the Condominium. Any deductible provision shall apply only to each occurrence rather than to each item of damage.

(3) As of the date of creation of the Condominium, public liability insurance shall be in a combined single limit of $5,000,000 covering all claims for bodily injury and property damage arising out of a single occurrence. The Board of Managers shall review such coverage at least once a year.

d. Directors' and Officers' Liability. (1) The directors' and officers' liability insurance shall cover the "wrongful" acts of a member of the Board of Managers, or an officer of the Condominium, This coverage provides for funds to be available to defend suits against officers of the Condominium, members of the Board of Managers, and to pay any claims which may result. The policy shall be on a "claims made" basis so as to cover all prior officers of the Condominium, and members of the Board of Managers, and any deductible provision shall apply only to each occurrence rather than to each item of damage. The policy shall provide for "participation" by the Condominium, the members of the Board of Managers and officers of the Condominium, only to the minimum extent required by law or applicable governmental regulation.

(2) At least until the first meeting of the Board of Managers following the first annual meeting of Unit Owners, the directors' and officers' liability coverage shall be in the amount of $1,000,000, provided the Board of Managers can, in its sole discretion, reasonably obtain such coverage.

e. Fidelity Bond. (1) The fidelity bond shall name the Condominium, the Unit Owners and the Condominium Board, as obligee, and shall cover all members of the Board of Managers, officers of the Condominium, and employees of the Condominium, and of the managing agents, who handle the Condominium, Unit 1 Area or Unit 2 Area funds. The bond shall be in an amount not less than the estimated maximum amount of funds, including reserves, in the custody of the Condominium or the Managing Agent or employees at any given time, but in no event less than a sum equal to three (3) months' aggregate Common Charges assessed against all Units, plus reserves. It shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression and shall provide that the bond shall not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 30 days' prior written notice to the Board of Managers, Insurance Trustee and all Permitted Mortgagees of Units as listed on the books and records of the Condominium.

(2) The coverage shall be at least $100,000 for dishonest acts and $100,000 for forgery. Notwithstanding the limitation set forth herein, the Board of Managers shall, upon the request of any Unit Owner, Permitted Mortgagee, or prospective Unit Owner, increase the amount of such bond to meet the reasonable requirements of any existing or proposed purchaser or insurer of any mortgage made or to be made on any Unit, and may pass any increased premium expense in connection therewith to said Unit Owner as a special assessment.

f. Worker's Compensation Insurance. Worker's Compensation insurance shall cover any employees of the Board of Managers, as well as any other person performing work on behalf of the Condominium..

g. Deductible Amounts. The deductible amount, if any, on any insurance policy purchased by the Board of Managers shall be a Common Expense, provided, however, that the Board of Managers shall assess against any Unit Owner who would be liable for the cost of repairing damage if there were no insurance coverage to repair the damage, the cost of any

deductible amount required to be paid to obtain the benefits of an insurance policy covering damage caused by the negligence or tortious act of that Unit Owner. The Condominium Board may pay the deductible portion for which a Unit Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorneys' fees) shall be a charge upon the Unit involved, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as Common Charges and assessments under Article 5 of these By-laws.

Section 6.2 Unit Owner's Insurance.

a. Each Unit Owner shall obtain and keep in full force and effect during the period of its ownership, (i) commercial general liability insurance, including a contractual liability endorsement and personal injury coverage, with the Condominium, all officers of the Condominium, the Board of Managers, all members thereof, and the Managing Agent for the Condominium, named as additional insureds, in amounts not less than $10,000,000 combined single limit for bodily or personal injury and property damage liability in any one occurrence; (ii) business interruption insurance in such amounts as will reimburse the Unit Owner for direct and indirect loss of earnings attributable to all perils and casualties commonly insured against by prudent commercial property owners or attributable to prevention of access to the Unit as a result of such perils; (iii) "Builder's Risk" insurance when alterations, maintenance or construction as permitted hereunder or under the Declaration, are in progress; (iii) insurance on installations made by Unit Owners or tenants or predecessors and fixtures not covered by the Condominium's all-risk policy relating to such and facilities located within or associated with the Unit; (iv) all-risk insurances on portions of the Unit Area not included in the Condominium's policy; and (iv) host liquor liability.

b. All policies of insurance carried by a Unit Owner covering or applicable to the Unit shall be written on an occurrence basis and shall contain, to the extent deemed appropriate by the Board and obtainable at reasonable cost, provisions pursuant to which the insurance company waives subrogation or permits the insured, prior to any loss, to agree with the Board or another Unit Owner to waive any claim it might have against said third party, without invalidating the coverage under the insurance policy. Each Unit Owner shall release each other Unit Owner and the Board, in respect of any claim (including a claim for negligence) which it might otherwise have against said Unit Owner, Board, for loss, damage or destruction of property by fire or other casualty, to the extent to which it is required to be insured under a policy containing a waiver of subrogation as provided in this subparagraph (b). Such policies shall also contain waivers of any defense based on invalidity arising from any acts of the insured, or of pro rata reduction of liability. Each such policy also shall contain a provision that no act or omission of the Unit Owner shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained and shall be non-cancelable with respect to the Condominium, the Board of Managers, without thirty (30) days' prior written notice to the Board by certified mail, return receipt requested, which notice shall contain the policy number and the names of the insured and additional insureds. A certificate thereof shall be delivered to the Board. Failure to deliver said certificate shall not absolve the Unit Owner of liability or render the Board liable. All policies shall provide that the adjustment of loss shall be made by the Unit Owner. If the net proceeds thereof for claims with insurers shall be $1,000,000 or less, the entire net proceeds shall be paid to the Unit Owner for restoration, as discussed in Section 6.6 of these By-laws. (This

$1,000,000 limit shall automatically be increased each calendar year by 5% over the limit of the previous year.) If the net proceeds thereof with respect to claims with insurers shall be more than $1,000,000, the entire net proceeds shall be paid to the Insurance Trustee, as hereafter defined, for restoration, as hereinafter discussed in Section 6.6 of these By-laws. The liability of carriers issuing insurance obtained by the Condominium Board, may not be affected or diminished by reason of any insurance obtained by the Unit Owner.

Section 6.3 Insurance Trustee. The term "Insurance Trustee" as used in these By-laws shall mean an Institutional Lender which has a capital and surplus account as of its last published statement in excess of One Billion Dollars ($1,000,000,000). An "Institutional Lender" shall mean any domestic or foreign commercial or savings bank, any insurance company or savings and loan association whose investments are regulated by the laws of any State or of the United States, any pension fund or any trust company, in the business, inter alia, of making construction loans secured by mortgages on real property. All administrative fees charged by the Insurance Trustee shall be a Common Expense unless the Insurance Trustee is acting exclusively for one or more Unit Owners to hold Proceeds with respect to repair of its/their Unit(s) and appurtenant Common Elements, in which event the cost of the Insurance Trustee shall be paid or shared by said Unit Owner(s), as applicable.

Notwithstanding any provisions of the Condominium Instruments to the contrary, the Unit Owners may unanimously waive the use of an Insurance Trustee in any given instance, provided that the appropriate Permitted Mortgagees have not objected in writing in that instance.

Section 6.4 Reputable Insurance Carriers. All insurance obtained by the Board of Managers and Unit Owners shall be effected under valid and enforceable policies issued by reputable and independent insurers of recognized responsibility licensed to do business in the State of New York, and rated by Best's Insurance Reports or any successor publication of comparable standing, as carrying a rating of A or better or the then equivalent of such rating, to the extent same is available and obtainable at relatively competitive reasonable rates. If same is not obtainable or not obtainable at competitive reasonable rates, all parties shall use their best efforts to obtain policies that are substantially equivalent.

Section 6.5 Owners to Use Same Insurer. Assuming an insurance carrier satisfying the criteria in Section 6.4 above is amenable, all Unit Owners owning Units shall confer to determine if they can and are willing, in their sole discretion, to insure their respective property interests in the Condominium with the same insurer(s) as shall have been selected by the Board of Managers. The purpose of this arrangement, which shall be coordinated through the Board of Managers, is to insure comprehensive coverage of all components of the Condominium and eliminate the possibility of gaps in coverage if different insurers (and/or insurers not familiar with condominium properties) are used.

Notwithstanding the foregoing or other provisions of this Article 6, insurance provided by commercial tenants protecting against appropriate risk shall be accepted in lieu of other requirements in this Article, provided that such insurance meets all applicable requirements of this Article 6.

Section 6.6 Repair or Reconstruction After Fire or Other Casualty.

a. Damage to Common Elements. Damage to or destruction of any portion of the Common Elements as a result of fire or other casualty shall be promptly repaired and reconstructed by the Board of Managers in compliance with all applicable laws as nearly as practicable to their condition and utility before the casualty using the Proceeds of casualty insurance for that purpose, subject, however, to the provisions of Section 6.8 of these By-laws. If, however, the damage or destruction pertains exclusively to the Unit 1 Area and does not affect the Unit 2 Area or any other area in the Condominium, the Board hereby delegates the rights and responsibilities set forth in this Section 6.6(a) to the Unit 1 Owner. Likewise, if the damage or destruction pertains exclusively to the Unit 2 Area and does not affect the Unit 1 Area or any other area in the Condominium, the Board hereby delegates the rights and responsibilities set forth in this Section 6.6(a) to Unit 2 Owner. If the damage or destruction involves both General Common Elements and Limited Common Elements, the Board shall supervise the repair and restoration work, but shall not undertake or arrange for any work in the affected Unit 1 Area or Unit 2 Area without the prior consent of the affected Unit Owner, which may not be unreasonably withheld. (As discussed in Article 5 of these By-laws, the Board may impose a special assessment against Unit Owners to obtain funds for repair and restoration prior to receipt of insurance proceeds and to obtain funds to cover shortfalls in insurance proceeds actually received.) If any such repair or restoration necessitates reconstructing any portion of the Common Elements in a manner different from the manner in which it was constructed prior to the casualty, and such difference in construction would have a material adverse effect on the operation of a particular Unit or any Limited Common Element appurtenant thereto, the Board or Unit 1 Owner or Unit 2 Owner, as applicable, shall furnish a copy of the proposed repair and/or restoration plan to the affected Unit Owner(s) prior to commencement of the work, for each such Unit Owner's review and approval, which approval may not be unreasonably withheld or delayed. In accordance with Section 6.1 of these By-laws, if the net Proceeds received in payment for casualty loss claims shall be more than $1,000,000, the entire net Proceeds shall be payable to an Insurance Trustee selected by the Board of Managers or an appropriate Unit Owner, as applicable. The Insurance Trustee shall disburse the proceeds of all such insurance policies (the "Proceeds") in appropriate progress payments, to pay for the restoration of the Common Elements, in accordance with the following procedures.

(1) The Proceeds shall be applied to the cost of the work necessary to restore the Common Elements as nearly as practicable to the condition they were in immediately before the casualty (the "Work") less a cumulative holdback of ten percent (10%) and shall be paid out from time to time promptly after demand with appropriate supporting information to the Board of Managers or Unit 1 Owner or Unit 2 Owner, as applicable, upon satisfaction of the following conditions:

A. The architect designated by the Board of Managers or Unit 1 Owner or Unit 2 Owner, as applicable, to design the restoration (the "Supervising Architect") approves all requisitions for payment in accordance with the following, which approval shall be based upon normal professional standards:

1. Each request for payment shall be made on seven (7) days' prior notice to the Insurance Trustee and shall be accompanied by a certificate of the

Supervising Architect stating that (i) all of the Work theretofore completed has been completed in accordance with the plans and specifications for the Work prepared and/or approved by the Supervising Architect and in compliance with all requirements of law; (ii) the sum requested is required to reimburse the Board of Managers or Unit 1 Owner or Unit 2 Owner as applicable, for payments actually made by the Board of Managers or Unit 1 Owner or Unit 2 Owner as applicable, to, or justly due to, the contractor, subcontractor, materialmen, laborers, engineers, architects or other persons rendering services or materials for portions of the Work theretofore completed (such certificate to include a brief description of such services and materials); (iii) when the sum currently requested is added to all sums, if any, previously paid out by the Insurance Trustee for the Work, the total does not exceed the value of the Work completed as of the date of such certificate, and (iv) the amount of Proceeds remaining undisbursed by the Insurance Trustee will be sufficient on completion of the Work to pay for the same in full, subject to Section 6.6(a)(i)(B) below;

2. Each request shall be accompanied by (i) waivers of liens covering those portions of the Work with respect to which payment has theretofore been made, if any, and (ii) a search prepared by a title company or licensed abstractor or by other evidence that there has not been filed against the Common Elements or any portion thereof or any Unit any mechanic's lien or other lien or instrument for the retention of title arising from the Work not discharged of record or which will not be discharged upon payment of the requisition and that there exist no encumbrances other than encumbrances, if any, existing as of the date the Declaration, except for a Permitted Mortgage and such encumbrances as do not arise due to the Work; and

3. The request for final payment of any Proceeds, including any retainage, after the completion of the Work, shall be accompanied by a copy of all certificates, permits, licenses, final lien and other waivers and/or other documents required by law for the use and occupancy of all portions of the Common Elements.

B. If at any time the Proceeds which are to be applied to the restoration of the Common Elements pursuant to the terms of this Section and which are to be paid to or for the account of the Board of Managers or Unit 1 Owner or Unit 2 Owner, as applicable, in accordance with the terms of this Section will be insufficient to pay the entire unpaid cost of the restoration, the Board of Managers or Unit 1 Owner or Unit 2 Owner as applicable, shall pay the deficiency, or make satisfactory provision for the payment thereof, prior to receiving any part of the Proceeds. Any cost of such repair and restoration in excess of the Proceeds shall constitute a Common Expense and the Board of, may assess all the Unit Owners for such deficit as part of the Common Charges. Any balance of such Proceeds not required for the restoration, upon completion of the Work and the reimbursement of the Board of Managers or Unit 1 Owner or Unit 2 Owner as applicable, in full for the payment of the Work, shall be returned to the Board of Managers or Unit 1 Owner or Unit 2 Owner, as applicable, to be distributed to Unit Owners in proportion to their Common Interest to the extent each Unit Owner has paid Common Charges due and assessed against its Unit. The procedures for release of insurance Proceeds set forth in this Section 6.6 may be modified by a majority of the Board of Managers without formally amending these By-laws, provided, however, that in no event may the Board decide to (i) eliminate the obligation to deposit Proceeds with an Insurance Trustee, except upon consent of all Unit Owners and all Permitted Mortgagees, or otherwise as may be

permitted by the Condominium Instruments (ii) eliminate the obligation to use the Proceeds for the purposes of restoration, (iii) eliminate the role of the Supervising Architect, (iv) eliminate the obligation of Unit Owners to pay any deficiency in Proceeds as a Common Expense, or (v) eliminate the Board's obligation to delegate to Unit 1 Owner or Unit 2 Owner, as applicable, the rights and obligations set forth herein with respect to repair and restoration of the Unit 1 Area and the Unit 2 Area, respectively, and provided, further, that no such modification shall materially impair or prejudice the rights or security of Permitted Mortgagees of Units or of leases of all or substantially all of a Unit, unless the consent of the affected mortgagee shall have been obtained, which consent shall not be unreasonably withheld or delayed.

b. Damage to Units. Damage to or destruction of a Unit(s) as a result of fire or other casualty, shall be promptly repaired and reconstructed by the Owner(s) of the affected Unit(s) in compliance with all applicable laws as nearly as practicable to the Unit(s)' condition and utility before the casualty, using the proceeds of casualty insurance on the Unit for that purpose, subject, however, to the provisions of Section 6.8 of these By-laws. In accordance with Section 6.2 of these By-laws, if the net proceeds received in payment for casualty loss claims shall be more than $1,000,000, the entire net proceeds shall be paid to an Insurance Trustee. The Insurance Trustee shall disburse the proceeds of all insurance policies (the "Proceeds") in appropriate progress payments, to pay for restoration of the Unit(s) in accordance with the following procedures.

(1) The Proceeds shall be applied to the cost of the remaining work necessary to restore the Unit(s) and/or Limited Common Elements appurtenant thereto, as nearly as practicable to the condition it was in immediately before the casualty (the "Work") less a cumulative holdback of ten percent (10%) and shall be paid out from time to time but not more frequently than once a month to the Unit Owner(s) upon satisfaction of the following conditions:

A. The architect designated by the affected Unit Owner(s) to design the restoration (the "Unit Owner's Architect") approves all requisitions for payment in accordance with the following, which approval shall be based upon normal professional standards:

1. Each request for payment shall be made on seven (7) days' prior notice to the Insurance Trustee and shall be accompanied by a certificate of the Unit Owner's Architect stating that (i) all of the Work theretofore completed has been completed in accordance with the plans and specifications for the Work prepared and/or approved by the Unit Owner's Architect and in compliance with all requirements of law; (ii) the sum requested is required to reimburse the Unit Owner for payments actually made by the Unit Owner to, or justly due to, the contractor, subcontractor, materialmen, laborers, engineers, architects or other persons rendering services or materials for portions of the Work theretofore completed (such certificate to include a brief description of such services and materials); (iii) when the sum currently requested is added to all sums, if any, previously paid out by the Insurance Trustee for the Work, the total does not exceed the value of the Work completed as of the date of such certificate, and (iv) the amount of Proceeds remaining undisbursed by the Insurance Trustee will be sufficient on completion of the Work to pay for the same in full, subject to Section 6.6(b)(i)(B) below;

2. Each request shall be accompanied by (i) waivers of liens covering those portions of the Work with respect to which payment has theretofore been made, if any, and (ii) a search prepared by a title company or licensed abstractor or by other evidence that there has not been filed against the Common Elements or any portion thereof or the Unit, any mechanic's lien or other lien or instrument for the retention of title arising from the Work not discharged of record or which will not be discharged upon payment of the requisition and that there exist no encumbrances on or affecting the Common Elements other than encumbrances, if any, existing as of the date the Declaration was recorded except for a Permitted Mortgage and such encumbrances as do not arise due to the Work; and

3. The request for final payment of any Proceeds, including any retainage, after the completion of the Work, shall be accompanied by a copy of all certificates, permits, licenses, final lien and other waivers and/or other documents required by law for the use and occupancy of all portions of the affected Unit(s) and/or the Limited Common Elements appurtenant thereto.

B. If at any time the Proceeds which are to be applied to the restoration of the Unit(s) and Common Elements appurtenant thereto pursuant to the terms of this Section and which are to be paid to or for the account of the Unit Owner in accordance with the terms of this Section will be insufficient to pay the entire unpaid cost of the restoration, the Unit Owner shall pay the deficiency, or make satisfactory provision for the payment thereof, prior to receiving any part of the Proceeds. The procedures for release of insurance Proceeds set forth in this Section 6.6 (b) may be modified by agreement between the Board of Managers (or the pertinent Unit Owner) and the affected Unit Owner (and the Permitted Mortgagee of said Unit or of a lease of all or substantially all of said Unit, if applicable), without formally amending these By-laws, provided, however, that in no event may said parties decide to (i) eliminate the obligation to deposit the Proceeds with an Insurance Trustee, (ii) eliminate the obligation to use the Proceeds for the purposes of restoration, (iii) eliminate the role of the Unit Owner's Architect, or (iv) eliminate the obligation of the Unit Owner to pay any deficiency in Proceeds.

Section 6.7 Unit Owner Failure to Rebuild.

If a Unit Owner fails to comply with the obligations to repair and restore set forth in Section 6.6 of these By-laws, and the Unit Owners have not voted to terminate the Condominium, and the Unit Owner's failure to repair and restore has a material adverse effect on other Units and/or the Common Elements, the Board of Managers may cause the Unit to be repaired and restored in accordance with these By-laws, and the cost in connection therewith shall be charged to the defaulting Unit Owner as a special assessment.

Section 6.8 Termination of Condominium Following Damage or Destruction. All Unit Owners agree to abide by the provisions of these By-laws with respect to repair and restoration of the Units. However, if at least three-fourths of the Buildings is destroyed or substantially damaged as a result of fire or other casualty, a special meeting of Unit Owners shall promptly be called by the Board in accordance with these By-laws, at which meeting Unit Owners shall be asked to decide if the Buildings should be restored or repaired. The Buildings shall not be restored unless, pursuant to the vote held at the meeting, all Unit Owners agree to restore and rebuild the Buildings. In the event a decision is made pursuant

to the foregoing not to rebuild or restore, the Buildings will not be repaired and the Property, or such portion of the Property as shall remain, shall be subject to an action for partition at the suit of any Unit Owner or any lienor as if owned in common. The net proceeds of sale arising out of the partition action, together with the net proceeds of insurance policies maintained by the Board for coverage of the Common Elements, shall be considered one fund and shall be divided by the Board of Managers among and paid to all Unit Owners in proportion to their respective Common Interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on such Unit Owner's Unit, in the order of the priority of such liens. The net proceeds of insurance on each Unit shall be payable as provided in each policy.

Section 6.9 Construction Manager and General Contractor. In the event of damage or destruction due to fire or other casualty affecting the Common Elements and/or one or more Units where the decision has been made to rebuild, the Board of Managers or Unit 1 Owner or Unit 2 Owner, as applicable, may engage a construction manager or general contractor to supervise the restoration work required to be done by the Board of Managers or Unit 1 Owner or Unit 2 Owner, as applicable. The construction manager or general contractor will coordinate the Board's or Unit 1 Owner's or Unit 2 Owner's restoration work with the Unit Owner's restoration work, or one Unit Owner's work with another Unit Owner's work, or Unit 1 Owner's work with the Board's work or with Unit 2 Owner's work, as applicable and as necessary, so the work and scheduling thereof may proceed efficiently and expeditiously. All such coordination work and the construction work itself shall be performed in accordance with good construction practices without priority or preference for particular Units or Unit Owners. The cost of the construction manager or the general contractor shall be a Common Expense or a Unit Owner expense, as applicable, unless, however, less than all of the Units are affected, and the Common Elements affected are adjoining the affected Units, in which case the Board of Managers or Unit 1 Owner or Unit 2 Owner, as applicable, in its discretion may allocate the cost of the construction manager or the general contractor to the Owners of the affected Units as a special assessment. Nothing in these By-laws or in the Declaration shall prohibit the Board from engaging a construction manager or a general contractor that is also a Unit Owner or is an affiliate of a Unit Owner or is owned in whole or in part or is otherwise controlled by a Unit Owner, provided the standards set forth herein for accomplishment of the necessary construction work are satisfied.

Section 6.10 Additional Premiums. A Unit Owner shall be solely responsible for the costs and expenses ("Additional Premiums") relating to any special, increased or additional insurance premiums, endorsements or coverage, no matter how or why required, which arise because of the operation or special installation, work, maintenance, existence, improvement or replacement to a Unit Area. Generally, it is intended that the provisions of this Section 6.10 shall pertain for expenses either (a) in excess of those that would normally be incurred for the operation of a conventional first class office park; or (b) for the existence in a Unit of, or any change in, or creation of, special custom physical structures that lead to special or increased insurance costs. To the extent that Additional Premiums arise with respect to insurance carried by the Board, the Board shall determine the responsibility and amounts relating to a particular Unit, and such Additional Premiums shall be charged to the Unit Owner as and for a portion of that Unit's Common Charges (with such Additional Premium to be maintained going forward, but not to be taken to increase the base of insurance premiums to become the subsequent standard above which Additional Premiums are determined). Accordingly, the Board

may, in its discretion, allocate the portions of insurance premiums included in Common Charges by a determination of the portion of such premiums as relates to the Unit 1 Area, the Unit 2 Area and the General Common Elements, respectively, rather than allocating insurance costs as a portion of Common Charges allocated merely by Common Interest. (By way of example, it is possible that Additional Premiums to be specially allocated to Unit Owners might arise if insurance costs increase because of the replacement of the external wall of a Unit; the creation of a glass curtain as part of a Unit; the requirement for 24-hour operation of a facility; or the use and/or operation of hazardous materials or high-risk equipment. Disputes in connection with the operation of this Section 6.10 shall be resolved by Arbitration.

Section 6.11 Requirements of Institutional Lenders. Notwithstanding any provisions of the Condominium Instruments to the contrary, the Board and each Unit Owner shall comply with the reasonable requirements respecting insurance as are imposed by Institutional Lenders who hold first mortgages of record on the Units (each, a "First Institutional Lender"). To the extent that there is a conflict between the reasonable requirements of First Institutional Lenders, such conflict shall be deemed a conflict between Unit Owners, to be resolved by Arbitration.

7. The Condominium Property -- Use, Operation, Preservation, Maintenance and Repair

Section 7.1 Repairs and Maintenance Which Are the Responsibility of the Board of Managers.

a. Except as otherwise specifically provided in the Condominium Instruments, all painting, decorating, maintenance, landscaping, repairs and replacements, whether structural or non-structural, ordinary or extraordinary, to the General Common Elements, whether located inside or outside a Unit, or in the Unit 1 Area or in the Unit 2 Area, shall be made by the Board of Managers.

b. All painting, decorating, maintenance, landscaping, repairs and replacements, whether structural or non-structural, ordinary or extraordinary to a Unit Area, whether located inside or outside the Unit, shall be made by the Unit Owner, provided, however, same are located exclusively in the Unit Area and do not affect the other Unit Area, any General Common Elements, or any other area of the Condominium. The cost of all such maintenance, repair, replacement, etc., shall be charged to the Unit Owner, unless occasioned by a negligent or willful act or omission, as more fully discussed in Section 7.2(b) below.

Section 7.2 Repairs and Maintenance Which Are the Responsibility of the Unit Owners.

a. All painting, decorating, maintenance, repairs and replacements to a Unit, including but not limited to doors opening onto Common Elements, and pipes, wires, conduits, etc. which service only one Unit and are deemed part of that Unit by the Declaration, regardless of where located, shall be made by the Owner of that Unit at its sole expense. However, access to any portion of the Buildings outside of the Unit to comply with the foregoing obligation, must

be coordinated through the Board; no Unit Owner shall have access to any other Unit or area of the Condominium without the Board's prior consent.

b. Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 7.1 above but which is occasioned by a negligent or willful act or omission of (i) a Unit Owner, or (ii) any agent, licensee, contractor, employee, family member, guest or tenant of such Unit Owner, or (iii) an agent, employee, licensee, contractor, family member or guest of the tenant or licensee of such Unit Owner, or (iv) a guest of (1) any member of such Unit Owner's family or (2) any family member or employee of the tenant of such Unit Owner, shall, provided same is not covered and paid for under insurance policies maintained by the Board, be made at the cost and expense of such Unit Owner. If such maintenance, repair or replacement is undertaken and paid for by the Condominium Board, and is not covered and paid for under insurance policies maintained by the Board (or is covered only in part through proceeds of the Board's insurance policies), the cost of such maintenance, repair or replacement (or any shortfall in insurance proceeds), shall not be regarded as a Common Expense, but rather shall be considered a special assessment allocable to the specific Unit and such cost shall be added to that Unit Owner's Common Charges, as applicable, and, as part of those Common Charges, shall constitute a lien on the Unit to secure the payment thereof. Should the cost of the maintenance, repair or replacement be covered in whole or in part under the Board's insurance policies, the Board may nevertheless seek payment in full from the Unit Owner in advance of receipt of the insurance proceeds, and reimburse the Unit Owner upon the Board's receipt of said proceeds.

c. Each Unit Owner shall be obligated, at its sole cost and expense, to maintain the exterior of the Buildings in its Unit's Area, including the façade, structurally, cosmetically and otherwise, and shall perform such preventative and regular maintenance and repairs as would reasonably be required to preserve the façade and to prevent deterioration and future issues with the integrity, weatherproof and waterproof nature and other issues of integrity and appearance regarding the exterior.

d. Each Unit Owner may perform any renovations, alterations or improvements to its Unit Area as are permitted by law, provided that such work is performed in a lawful manner and reasonable insurance is provided naming the Condominium and its Board of Managers. The Board and the applicable Unit Owner shall cooperate in connection with such work and, if required, shall execute applications, permits and forms and allow such access as is required, to allow such work to be performed.

Section 7.3 Quality, Type. Each Unit Owner at said Unit Owner's expense shall keep the Unit and any Limited Common Elements appurtenant thereto in good order, shall cause the Unit, including any street level entrance door or doors and any street level exterior and interior glass surfaces and any service entrance area, to be cleaned at regular intervals, shall not at any time sweep any refuse, rubbish or dirt into the gutters or streets, and shall cause any portions of the Unit used for storage, preparation, service or consumption of food or beverages to be exterminated against infestation by vermin, roaches or rodents regularly, and in addition, whenever there shall be evidence of any infestation.

Section 7.4 Violations of Maintenance Obligations.

a. (i) In the event that any Unit Owner fails or neglects in any way to perform any obligation with respect to the repair, maintenance or replacement of any part of the Unit, and if the Unit Owner's failure to so perform materially and adversely affects the use of the other Units and/or the normal conduct of business of the Condominium and/or other Unit Owners, and tenants of Units, and/or the safe and efficient operation of the Condominium and/or the Common Elements, (x) the Condominium Board may, if such failure affects the General Common Elements only, and (y) a Unit Owner may, as to the other Unit Owner's Unit, cure such obligation, but none of the foregoing shall be obligated to perform or cause to be performed any such maintenance, repair or replacement provided that the Condominium Board gives the Unit Owner at least fifteen (15) days' prior written notice (or written or oral notice of a shorter duration in the event of an emergency situation), that such maintenance, repair or replacement is necessary and that the Condominium Board will complete such maintenance, repair or replacement in the event the Unit Owner does not promptly act or complete the maintenance, repair or replacement.

(ii) In the event the Condominium Board shall make such maintenance, repair or replacement, it shall be at the expense of the Unit Owner who failed to perform the obligation, which shall be charged to said non-performing Unit Owner as a special assessment. If the non-performing Unit Owner fails to pay said assessment, the Condominium Board, shall take action against such non-performing Unit Owner to recover said costs and expenses, in the same manner as if said costs and expenses were unpaid Common Charges. Said action shall be at the cost and expense of the non-performing Unit Owner, who shall pay same from time to time, as costs and expenses (including but not limited to attorneys' fees and disbursements), are incurred. The Board of Managers shall bill the non performing Unit Owner for such costs and expenses as a special assessment and if such costs and expenses are not paid, the Board shall take action against such Unit Owner to recover said costs and expenses in the same manner as if said costs and expenses were unpaid Common Charges. Said action shall be at the cost and expense of the Unit Owners, as applicable, but reimbursement therefor shall be sought in the action against the non-performing Unit Owner.

b. (i) In the event that any Unit Owner (hereinafter the "recalcitrant Unit Owner") fails or neglects in any way to perform or cause to be performed any obligation with respect to the maintenance, repair or replacement of any part of said Unit Owner's Unit, and if the recalcitrant Unit Owner's failure to so perform materially and adversely affects the use of another Unit, the normal conduct of business of another Unit, its tenants or other occupants, or the safe and efficient operation of another Unit in the Condominium, and the owner of the adversely affected Unit (hereinafter the "aggrieved Unit Owner") petitions the Condominium Board in writing to take specified actions to enforce the recalcitrant Unit Owner's obligation, the Condominium Board shall be obligated to, and shall promptly take such specified actions, provided that the Condominium Board agrees with the aggrieved Unit Owner and provided, further, that such specified actions are reasonable, necessary and do not materially or adversely affect the use of other Units in the Condominium, the safe or efficient operation of the other Units in the Condominium, or the normal conduct of business of the other Units in the Condominium or their tenants or other occupants, and the Board complies with the same notice requirement to the recalcitrant Unit Owner as set forth in Section 7.5(a) of these By-laws, before commencing such actions.

(ii) Actions taken in accordance with the immediately preceding paragraph shall be performed at the cost and expense of the aggrieved Unit Owner who shall pay same to the Board, from time to time, as costs and expenses (including but not limited to attorneys' fees and disbursements), are incurred. However, the Condominium Board shall bill the recalcitrant Unit Owner for such costs and expenses as a special assessment and if such costs and expenses are not paid, the Board shall take action against the recalcitrant Unit Owner to recover said costs and expenses in the same manner as if said costs and expenses were unpaid Common Charges. Said action shall be at the cost and expense of the Unit Owners but reimbursement therefor shall be sought in the action against the recalcitrant Unit Owner. To the extent costs and expenses are collected from the recalcitrant Unit Owner, the Condominium Board shall first reimburse itself for costs and expenses it incurred in bringing the action (which have not theretofore been reimbursed), and next, to the extent there are funds remaining, shall reimburse the aggrieved Unit Owner for the costs and expenses previously paid by the aggrieved Unit Owner (which have not theretofore been reimbursed). Any funds remaining after the Board and the aggrieved Unit Owner have been reimbursed in full for their costs and expenses, shall remain the property of the entity that brought the action, to handle as the entity deems prudent.

Section 7.5 Abatement and Enjoinment of Violations by Unit Owners.

a. The violation of any of the Rules and Regulations adopted by the Board of Managers, or the breach of any By-law contained herein, or the breach of any provision of the Declaration, shall give the Board of Managers, the right, in addition to and supplementing any other rights set forth in the foregoing provisions of this Article 7 or elsewhere in these By-laws, (i) upon fifteen (15) days' prior written notice to the Unit Owner, to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provision of the Declaration, By-laws, or Rules or Regulations, as applicable (provided, however, that no prior notice shall be required in the event of an emergency, as defined in the Declaration) and the Board of Managers, shall not be deemed thereby guilty in any manner of trespass; or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; or (iii) to establish a penalty in accordance with Section 7.8 below.

b. In any case of flagrant or repeated violation or breach by a Unit Owner of the Condominium Instruments, such Unit Owner may be required by the Board of Managers, to give sufficient surety or sureties for future compliance with the Declaration, By-laws, Rules and Regulations, or decision of the Condominium Board.

c. All rights, remedies and privileges granted to the Board of Managers, and aggrieved Unit Owners herein shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising such right or rights from exercising such other and additional rights, remedies or privileges as may be granted by the Declaration, these By-Laws, the Rules and Regulations, or at law or in equity.

d. The provisions of the Sections 7.4 and 7.5 of the By-laws are subject to the provisions of Section 5.2 of the Declaration, and any disputes in connection with the operation of Sections 7.4 and 7.5 shall be resolved by Arbitration.

Section 7.6 Obligation and Lien for Cost of Enforcement. If an action is successfully brought to extinguish a violation of any Rule or Regulation adopted by the Board of Managers, or to enforce the provisions of the Declaration or By-Laws, the cost of such action, including legal fees, shall become a binding personal obligation of the violator. If such violator is (1) the Unit Owner, or (2) any employee, contractor, agent, licensee, tenant, invitee, family member or guest of such Unit Owner, such cost shall be a lien upon the Unit or Units of such Unit Owner.

Section 7.7 Penalties. In addition or as an alternative to an action at law or suit in equity, the Board of Managers may, with respect to any violation of the Declaration or of these By-laws or of any Rules and Regulations of the Condominium, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against a Unit Owner shall be deemed an assessment against the Unit of such Owner and, as such, shall be a charge and continuing lien upon such Unit, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as Common Charges and special assessments under these By-laws. A Unit Owner who disputes the validity or reasonableness of a penalty imposed against the Unit may subject the dispute to Arbitration in accordance with Article 11 of these By-laws.

Section 7.8 Restrictions on Unit Owner Use of Units and Common Elements. In order to provide for congenial occupancy of the Property and for the protection of the value of the Units, and supplementing the provisions of Section 2.4 of the Declaration, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

a. Each Unit may be used for any legal use conforming with applicable zoning restrictions, Buildings codes, other laws and regulations and the certificate of occupancy for the Unit and/or the Buildings subject to restrictions set forth in the Declaration and these By-laws. Nothing contained herein shall be deemed to prevent any Unit Owner from further restricting the use to which a Unit may be put, by insertion of lawful restrictions in the deed conveying a Unit owned by such Unit Owner to a subsequent Unit Owner. The foregoing provision shall not be construed to permit a Unit Owner to insert restrictions in deeds conveying Units owned by other Unit Owners. Accordingly, grantors may only impose restrictions in their own deeds of conveyance and may not impose restrictions in other Unit Owners' deeds of conveyance.

b. No zoning variances with respect to use of any Common Element may be applied for by a Unit Owner. Any such application shall be made only by or through the Condominium Board. Unit Owners (or tenants of Unit Owners, with the consent of the Unit Owner) may, however, apply for zoning variances pertaining solely to their own Units (or space therein) provided any such variance, if granted, shall not materially or adversely affect the use or

access of any other Unit or Limited Common Elements by any other Unit Owner or occupant thereof, and shall not materially or adversely affect the use of any other Unit or the General Common Elements. Among other matters, and without limitation, any proposed zoning variance shall be deemed material and adverse if it would require the non-applying Unit Owners or the Board of Managers (or the Condominium) to perform any work, impose liability or create any obligation in connection with such variance or in the future with respect to the non-applying Unit Owner or the Board of Managers. The owner making such variance shall indemnify and hold all other Unit Owners and the Board harmless against any losses, cost, expenses or damages suffered because of the effect of such variance. Copies of applications for zoning variances shall be submitted to the Board simultaneously with their submission to the governmental agency responsible for ruling on the request for such zoning variance.

c. No Owner, tenant or occupant of a Unit shall do, suffer, or permit to be done, any thing in any Unit which would impair the soundness or safety of the Buildings, or which would result in the cancellation of insurance applicable to the Buildings, or which would be noxious, offensive or hazardous or an interference with the peaceful possession and proper use of any other Unit, or which would require an alteration to any of the General Common Elements or in another Unit's Area in order to comply with any applicable law or regulation, or which would otherwise be in violation of law. No portion of the Property shall be used for (i) the sale of pornographic or obscene materials or for any similar purpose or as a "massage parlor," "sex club" or "topless bar" or other similar establishment, (ii) a facility for the sale of paraphernalia for use with illicit drugs, (iii) an off-track betting parlor, (iv) a heavy industrial or heavy manufacturing use; provided, however, that nothing contained in this subsection (c) limits use of portions of the Property as (x) a newsstand, bookstore or other similar establishment that constitutes a first-class retail establishment, but nevertheless stocks books, magazines or other materials which, viewed alone, may constitute pornography or obscene material, as long as a reasonable customer would not consider the inventory of such bookstore, newsstand or other establishment, as a whole, as pornographic or obscene, (y) a café or storefront providing computer use or internet access (provided such services are not principally geared to providing access to pornographic sites) or (z) a health club or spa which provides massage therapy. Nothing in this subsection shall be deemed to diminish the effect of any other use restrictions contained in the Condominium Instruments, including without limitation those set forth in Section 2.4 of the Declaration.

d. No Owner, tenant or occupant of a Unit shall repair, alter, replace or move any of the General Common Elements, regardless of where located, without the prior written consent of the Board. A Unit Owner shall not obstruct the General Common Elements.

e. Subject to the provisions of the Declaration or these By-laws specifically dealing with the circumstances of physical combination of Units, neither the Board nor either Unit Owner shall unreasonably withhold consent to an application by a Unit Owner (i) to connect two or more Units owned by the same Owner or to connect contiguous floors within a single multi-storied Unit, through installation by or for said Unit Owner at the Unit Owner's expense, of one or more interior stairways requiring penetration through one or more concrete floor slabs, or (ii) to penetrate one or more concrete floor slabs in order to install risers for electricity and other utilities, provided, however, that the construction proposed by the Unit

Owner in the application will not, in the judgment of the Board based on the advice of a licensed architect or structural engineer, weaken the structural integrity of the Buildings.

f. The Units shall be used in a manner appropriate to the design of the Buildings systems and for which adequate elevator, stair, ventilation, plumbing and similar and related facilities exist. A Unit Owner's use of electricity and other systems in the Unit shall not at any time exceed the capacity of any electrical conductors and other equipment in or otherwise serving the Unit.

g. Each Unit Owner, at its sole expense, shall comply with all laws, orders and regulations of federal, state and municipal authorities and with any direction of any public officer or officers, pursuant to law, and all rules, orders, regulations or requirements of the New York Board of Fire Underwriters, or any other similar body which shall impose any violation, order or duty upon the Condominium, its Board of Managers, or the Unit Owner, with respect to said Unit. Notwithstanding the foregoing, the Unit Owner may, at its expense, contest by appropriate proceedings, prosecuted diligently and in good faith, the validity or applicability to the Unit of any law or requirement of any public authority, provided that (i) neither the Board nor any member of the Board shall be subject to criminal penalty or prosecution for a crime, or any other fine or charge, nor shall any part of the Property (other than the Unit) be subject to any lien or encumbrance by reason of such non-compliance or contest; (ii) before the commencement of such contest, the Unit Owner shall indemnify the Board, interest, penalties and other expenses resulting from the non-compliance or contest; and (iii) such non-compliance or contest shall not prevent the Board from obtaining any and all permits and licenses in connection with the operation of the Condominium.

h. A Unit Owner shall not at any time use or occupy or suffer or permit anyone to use or occupy a Unit or do anything in a Unit or the Buildings, or suffer or permit anything to be done in a Unit or the Buildings, in violation of any temporary or permanent certificate of occupancy issued for the Unit and/or the Buildings, and in the event that any governmental agency or department having jurisdiction over the project shall at any time contend and/or declare by notice, violation, order or in any other manner whatsoever that a Unit is used for a purpose which is a violation of such certificate of occupancy, the Unit Owner of said Unit shall, upon ten (10) days' written notice from the Board of Managers immediately discontinue such use of the Unit. Notwithstanding the foregoing, the Unit Owner may, at its expense, contest by appropriate proceedings, prosecuted diligently and in good faith, the validity or applicability to the Unit of any law or requirement of any public authority, provided that (i) neither the Board nor any member of the Board shall be subject to criminal penalty or prosecution for a crime, or any other fine or charge, nor shall any part of the Property (other than the Unit) be subject to any lien or encumbrance by reason of such non-compliance or contest; (ii) before the commencement of such contest, the Unit Owner shall indemnify the Board, interest, penalties and other expenses resulting from the non-compliance or contest; and (iii) such non-compliance or contest shall not prevent the Board from obtaining any and all permits and licenses in connection with the operation of the Condominium.

i. No Unit Owner or tenant of a Unit may apply to a governmental agency, department, bureau, division or any other governmental authority for a permit, license or certificate, the granting of which would prevent another Unit Owner or tenant of a Unit from

obtaining a similar permit, license or certificate, without previously having obtained the Condominium Board's written consent to make said application. The Condominium Board's consent to the making of such application shall not be unreasonably withheld. The Condominium Board's denial of consent on the ground that another Unit Owner has a pending or imminent application for the same permit, certificate or license shall not be deemed unreasonable. Applications for consent shall be made in writing to the Condominium Board. The Condominium Board's failure to respond to a written request within thirty (30) days of receipt shall mean the Condominium has consented to the application.

j. (i) A Unit Owner shall not use or occupy (or permit to be used or occupied), its Unit, or any part thereof, for the use, storage, production or generation of flammable liquids, chemicals, polychlorinated biphenyls, petroleum products, or any other hazardous or toxic materials, substances or wastes, in violation of applicable law. Each Unit Owner by virtue of ownership of a Unit, shall be deemed to have agreed to indemnify and hold harmless the Board and all other Unit Owners, for all loss, damage or liability any or all of the foregoing actually incur, including but not limited to attorneys' fees and disbursements, arising out of or in any way connected with, the indemnifying Unit Owner's failure to observe the provisions of this Section during the period of the Unit Owner's ownership of the Unit.

(ii) If the Condominium Board determines that a proposed alteration or improvement of a General Common Element is general in character, the cost thereof shall be a Common Expense, shared by all Unit Owners in accordance with the Condominium Instruments. If the Condominium Board determines that an alteration or improvement is exclusively or substantially for the benefit of the Unit Owner that requested it, the cost shall be a special assessment against such Owner, subject to the requirements of these By-laws. If more than one Unit Owner requested the alteration, the cost shall be assessed in such proportion as the Condominium Board shall determine to be fair and equitable. The foregoing shall not prevent the Unit Owners affected by such alteration or improvement from agreeing in writing, before or after the assessment is made, to be assessed in different proportions.

k. Notwithstanding anything to the contrary in this Section 7.8, in no event may the Board improve or alter Common Elements in a manner materially and adversely affecting a Unit, without the prior consent of the Owner of that Unit.

l. It is understood that the Lobby shall be operated as a General Common Element. Both Unit Owners shall have non-exclusive rights to use the Lobby for access to use the Office Building, and neither Unit Owner shall be limited in its rights to use the Lobby as would materially or adversely interfere with the operation of its Unit.

m. Notwithstanding any provisions of this Section 7.8 or Section 2.4 of the Declaration or any other provisions of the Condominium Instruments to the contrary, the use of the Unit 2 Area shall be permitted and restricted by the same provisions as pertain(ed) to the Tenant under the LIJ Lease, and the use of the Property by the Board and the Unit 1 Owner shall be governed and limited in part to the extent that the Landlord is (was) so limited under the LIJ Lease, as set forth in the Schedule E Provisions. Any dispute in this regard shall be resolved by Arbitration.

Section 7.9 Additions. Alterations or Improvements by Unit Owners.

a. Specific procedures applicable to division and combination of Units are contained in Section 2.5 of the Declaration. Unit Owners combining or dividing Units shall also be subject to the requirements governing alterations generally, contained in this Section 7.9.

b. (i) Any structural addition, alteration or improvement to a Unit or the Limited Common Elements appurtenant thereto, or affecting the Common Elements in any way, shall require the prior written consent of the Board, which consent shall not be unreasonably withheld or delayed. If the proposed alteration or improvement would have a material and adverse effect on the structural integrity of the Buildings or on the Common Elements, the withholding of consent shall not be deemed unreasonable. The Board shall be obligated to act on a Unit Owner's request for approval within thirty (30) days of the Board's receipt from the Unit Owner of information in sufficient detail for the Board to thoroughly evaluate the request. In connection with any such request for approval, the Unit Owner shall be expected to submit, at a minimum, preliminary plans and specifications prepared by an architect licensed in New York State, and in the event approval is sought in connection with a proposed division or combination of a Unit, a draft of the proposed associated amendment to the Declaration, which shall, among other things, reallocate Common Interest. The Board shall have the right to impose additional reasonable requirements as the Board deems appropriate. The 30-day period within which the Board is obligated to act, shall not begin to run until the Board, in its sole reasonable judgment, has received a complete application from the Unit Owner seeking the Board's approval. The Board's failure to act on a complete application within 30 days after receipt thereof, shall be deemed to mean the Board has approved the application.

(ii) A Unit Owner who feels the Board's consent has been unreasonably withheld or delayed pursuant to the foregoing paragraph, may submit the dispute to Arbitration in accordance with Article 11 of these By-laws.

(iii) The reasonable costs associated with any proposed alteration, improvement, division or combination of a Unit incurred by the Board in connection with its responsibilities under this Section 7.9(b) (including but not limited to the reasonable costs incurred by the Board to engage architects, lawyers, and other professionals to review the plans and specifications for the proposed construction work and, if applicable, the proposed amendment to the Declaration), shall be borne by the Owner of the Unit being altered, improved, divided or combined.

c. Subject to the foregoing, any Unit Owner may at any time, at such Owner's sole cost and expense, make alterations to the improvements located within such Owner's Unit Area, including but not limited to tenant installations, provided that such alterations shall not (i) materially diminish the benefits afforded to any other Owner by virtue of the Declaration or these By-laws, or (ii) unreasonably interrupt any other Owner's exercise of its rights hereunder, or (iii) affect the structural integrity of the Buildings or the Common Elements of the Buildings. The Board shall not withhold consent to a Unit Owner's request for approval to construct structural alterations such as interior staircases solely within their Unit (x) if such construction will not adversely affect the structural integrity of the Buildings and (y) if the Owner causing such construction to be initiated delivers to the Board of Managers, as part of its

application for the Board's consent to the proposed alterations, (1) a certification by a structural engineer, reasonably satisfactory to the Board confirming that there will be no adverse effect on the structural integrity of the Buildings, and (2) for informational purposes only, copies of approved alteration plans, the plans and specifications, and all Buildings permits and other required governmental approvals.

d. If at any time any Unit Owner proposes to make any alterations which may adversely affect another Unit Owner, the Owner proposing the alteration must obtain the consent of the affected Unit Owner, as well as the Board, prior to making such alteration. Thus, before commencing such alteration, the Owner who proposes to make the same shall give to such other Owner a copy of the plans and specifications describing the proposed alterations. If such other Owner shall not, within 20 days after delivery of said plans and specifications, give the Owner who proposes to make such alterations, a written notice refusing to consent to the proposed alterations, then the proposed alterations may be made at the cost of the Owner who proposed same, provided that the alterations are actually made substantially in accordance with the plans and specifications furnished to such other Owner. The Unit Owner requesting another Unit Owner's consent to alteration plans shall be responsible for paying the reasonable fees and disbursements of any and all professionals engaged by the Unit Owner from whom consent is requested to review and evaluate the proposed alterations. Any dispute relating to the rights of any Owner to make any alteration may be settled by Arbitration pursuant to Article 11 hereof. If a dispute is submitted to Arbitration, the Owner who proposes to make such alterations shall not commence the same until the dispute has been settled in favor of such Owner by Arbitration in accordance with Article 11 hereof.

e. Any Unit Owner making alterations shall comply with all applicable laws. A Unit Owner shall, to the extent reasonably practicable, make alterations in such a manner as to reasonably minimize any noise, vibration or odor which would unreasonably disturb an occupant or occupants of a Unit owned by any other Unit Owner. Upon completion of any alteration, the Floor Plans shall be amended, if required by law, at the expense of the Owner making the alterations in question to reflect such alterations "as-built."

f. In addition to complying with the provisions governing additions, alterations and improvements set forth above and in the Declaration, no Unit Owner shall install any industrial appliance or industrial machine or make any structural addition, alteration or improvement in or to the General Common Elements without the prior written consent thereto by the Board of Managers. The Board of Managers shall execute any application or other document required to be filed with any governmental authority having or asserting jurisdiction in connection with any installation or structural addition, alteration or improvement made by a Unit Owner in accordance with these By-laws and the Declaration to any Unit or Limited Common Elements, provided however, that neither the Board of Managers, nor the other Unit Owners shall be subjected to any expense or liability by virtue of the execution of the application or such other document, and that the Unit Owner requesting the application or documentation agrees to indemnify the Board of Managers and Unit Owners accordingly. A copy of any such application or document required to be signed by the Board of Managers shall be given to the Board of Managers by the Unit Owner. In connection with any installation or work done by a Unit Owner, the Board, as applicable, shall require that the Unit Owner obtain insurance coverage of such type and amount as the Board of Managers shall deem reasonably proper to

protect the interests of the Board of Managers and all other Unit Owners at the Condominium. The Board may also require the Unit Owner to post a bond or other security deposit to secure the Unit Owner's indemnity in connection with the work generally, in an amount reasonably related to the work to be performed.

Section 7.10 Utility Charges. As of the date of the Declaration, utilities including water and electricity and gas are supplied either by separate meters to the Units, or are submetered either from another Unit or from the Board. However, if the Units are submetered, then either the Board, as a Common Expense, or a Unit Owner that is submetered, at its sole cost and expense, may arrange for direct metering of a particular utility, and the Board and all Unit Owners shall cooperate as is reasonably required to accomplish same. In either event, to the extent that a Unit is submetered or separately metered, it will pay its own costs for utilities and there will be no item of Common Expense for water or electricity or gas, if any, except as pertains to the General Common Elements and as determined by the appropriate meters or, if such areas are not separately metered, then as otherwise determined by the Board. Te provisions of this Section 7.10 shall be subject to the operation of Section 11.3(b)(ii) of the Declaration.

Section 7.11 Heat and Hot Water. Heat and hot water shall be separately supplied to the Units at their expense, but the cost of heat and hot water and related facilities to the General Common Elements shall be a Common Expense.

Section 7.12 Rules of Conduct. Rules and Regulations concerning the General Common Elements may be promulgated and amended by the Board of Managers. All rules and regulations shall be reasonable and non-discriminatory.

8. Mortgaging of Units

Section 8.1 Unit Owner's Rights. Each Unit Owner shall have the right to give a mortgage on its Unit and each tenant of all or substantially all of a Unit shall have the right to give a mortgage on its lease (subject, however, to the terms, conditions and provisions of said lease), and the Board of Managers will recognize the holder of any such mortgage, provided that with respect to any such mortgage (i) the mortgage shall be recorded and shall be expressly subordinate to the Declaration and these By-laws, (ii) the Unit Owner (or lessee) making such mortgage pays all assessments at or prior to the making of the mortgage in accordance with these By-laws, and (iii) the Unit Owner (or tenant, as applicable) and the Mortgagee enter into a written agreement with the Board of Managers, which, inter alia, (x) asks and authorizes the Board of Managers to recognize the Mortgagee in connection with explicitly itemized actions, and (y) states that the Mortgagee will not unreasonably withhold or delay consent to any action by the Board of Managers, as applicable, which pursuant to these By-laws or the Declaration requires the consent of the holders of fee mortgages or mortgages on leases of all or substantially all of a Unit prior to its occurrence. Notwithstanding anything to the contrary that may be contained in any such agreement, if the Mortgagee fails to object to a proposed action as to which its consent is requested within ten (10) business days of the date its consent is requested, the Mortgagee's consent to the proposed action shall be deemed given. The only specific recognition the Board will be required to give a Mortgagee pursuant to the agreement referred to in clause (iii) above will be recognition in the event the Board is about to commence a foreclosure of its lien for unpaid Common Charges. Any Mortgagee that satisfies the foregoing

criteria shall be referred to as a "Permitted Mortgagee" and any mortgage held by such Permitted Mortgagee satisfying the foregoing criteria shall be referred to as a "Permitted Mortgage."

Section 8.2 Notice to Board of Managers. A Unit Owner or lessee who mortgages its Unit or lease, as applicable, shall notify the Board of Managers of the name and address of its Mortgagee, promptly upon the execution of the mortgage.

Section 8.3 Notice of Unpaid Common Charges or Other Default. The Board of Managers, whenever so requested in writing (i.e., in the agreement referred to in Section 8.1 above or at any other time) by a Permitted Mortgagee, shall promptly report any then unpaid fee or Common Charges due from, or any other default by, the Owner of the mortgaged Unit.

Section 8.4 Board of Managers to Give Notice of Default.

a. The Board of Managers, when giving notice to a Unit Owner of a default in paying Common Charges or other default, shall send a copy of such notice to each holder of a Permitted Mortgage covering such Unit (or covering a lease of all or substantially all of a Unit) whose name and address has theretofore been furnished to the Board of Managers, at the last address the Board has for that Permitted Mortgagee, provided the Permitted Mortgagee has requested of the Board of Managers, in writing that it be notified of such default(s) (i.e., in the agreement referred to in Section 8.1 above or at any other time). Mortgagees who are entitled to receive notices of default by the Unit Owner in accordance with the foregoing, shall also be entitled to cure the default.

b. For a period of thirty (30) days following the giving of notice to a Permitted Mortgagee of a default by a Unit Owner in payment of Common Charges, the Board of Managers will not commence a proceeding to foreclose its lien for said Unit Owner's nonpayment of Common Charges. If the Permitted Mortgagee fails to cure said default within said thirty (30) day period by paying the requisite Common Charges (plus late payment charges and interest thereon as per these By-laws), the Board shall be free to commence a proceeding to foreclose its lien at its discretion.

Section 8.5 Permitted Mortgagees to Notify Board of Unit Owner's Default. Upon the happening of a default under the terms of a Permitted Mortgage which would permit the holder to declare the entire principal sum due, notice of the intention of the holder to do so shall be given in writing to the Board of Managers prior to instituting a foreclosure action.

Section 8.6 Condominium Board Shall Be Notified in All Mortgage or Other Lien Foreclosures. The Board of Managers shall be given notice in writing of every action brought to foreclose any mortgage or other lien affecting a Unit. The Board of Managers, shall be entitled to bid at any sale, whether or not the Board of Managers is a named party in such action, and to purchase any Unit at such sale (in its name or in the name of a nominee) for such amount as shall be approved by the applicable Unit Owners in accordance with these By-laws, taking into consideration the amount due the plaintiff, the costs and disbursements, and all other charges affecting the Unit. The Board of Managers, shall not,

however, be limited in their bidding to such amount or total but may bid any higher sum that they find necessary in order to protect the interests of the other applicable Unit Owners.

Section 8.7 Receivers. Notwithstanding anything to the contrary in these By-laws or the Declaration, in the event a receiver is appointed in connection with an action to foreclose a mortgage against a Unit, whether that mortgage is a Permitted Mortgage or otherwise, said receiver shall, upon appointment, be obligated to pay to the Board of Managers, all Common Charges owed by the defaulting Unit Owner, together with any interest and penalties assessed thereon, as well as all Common Charges and assessments going forward. Further, upon the appointment of a receiver, the Unit Owner whose Unit is being foreclosed upon loses all rights accorded a Unit Owner in these By-laws or the Declaration in connection with the operation of the Condominium and the receiver shall succeed to all such rights.

Section 8.8 Permitted Mortgagee Representatives. Where in the Condominium Instruments consent is required from Permitted Mortgagees as to an amendment to the Condominium Instruments or another matter affecting all Unit Owners, the consent of the Permitted Mortgagees of Derived Units shall be requested of and may be obtained either from (i) a majority of such Permitted Mortgagees in terms of Common Interest allocated to Derived Units of that category on which Derived Unit Mortgagees have a lien or (ii) from a representative (a "Permitted Mortgagee Representative") of such Derived Unit Permitted Mortgagees designated by the Derived Representative in writing to the Board. Failure to appoint a Permitted Mortgagee Representative shall be deemed waiver on the part of the Permitted Mortgagees and in the event of such failure all such Permitted Mortgagees of Derived Units shall be deemed to have consented to any such matters as would otherwise require their consent.

9. Sales and Leases of Units

Section 9.1 Sales. a. A Unit Owner may not sell or otherwise convey its Unit or any interest therein except in accordance with law. In addition, any Unit Owner who accepts an offer for the sale of its Unit, shall sell said Unit together with: (i) the undivided Common Interest appurtenant thereto; (ii) the interest of such Unit Owner in any Units theretofore acquired by the Board of Managers or their designee, on behalf of Unit Owners, or the undisbursed proceeds of the sale thereof, if any; and (iii) the interest of such Unit Owner in any other assets of the Condominium (hereinafter collectively called the "Appurtenant Interests"). At the closing, the Unit Owner shall convey the Unit and Appurtenant Interests to the purchaser, by deed in the form required by the Condominium Act and these By-laws, and shall pay all taxes arising out of such sale. Any such deed shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the By-laws, and the Rules and Regulations, as and if applicable, as the same may be amended from time to time.

b. Upon the written request of a Unit Owner, the Board will enter into a written agreement in form and substance reasonably acceptable to the Board relating to a tenant of all or part of the Unit Owner's Unit providing that so long as a bona fide third party lease is in full force and effect for the relevant space and there is no uncured default by the tenant thereunder, the possession of the tenant shall not be disturbed or affected as a result of foreclosure by the Board of Managers of the lien for unpaid Common Charges against such Unit;

and, in the event the Unit Owner is in default to the Board of Managers for non-payment of Common Charges or otherwise, upon receipt of notice from the Board to such effect, the tenant will pay all rent that would otherwise be due to the Unit Owner under the lease and shall attorn to the Board, as its new landlord, and shall execute a reasonable separate confirmation of such attornment and estoppel certificate upon request.

c. The Board shall send to any tenant of all or substantially all of a Unit to whom the Unit Owner has authorized the sending of such notices by written direction to the Board of Managers, copies of notices sent to the Unit Owner of a default in payment of Common Charges. Tenants who are entitled to receive notices of default by the Unit Owner in accordance with this subsection (c) shall also be entitled to cure said default by payment in the same manner as permitted to the Unit Owner.

d. The Board and any tenant shall, upon request from a Unit Owner, confirm in writing its agreements with respect to the preceding subsections (b) and (c) in connection with a particular lease.

e. A Unit Owner or tenant requesting any agreement or statement pursuant to the operation of this Section 9.1 shall be obligated to pay all legal fees of the Board in connection therewith, and payment of such fees shall be a precondition to the obligation of the Board to deliver such agreement or statement.

Section 9.2 Consent of Unit Owners to Purchase or Lease of Units by Board. The Board of Managers shall not purchase or lease any Unit without the prior approval of all Unit Owners.

Section 9.3 Financing of Purchase of Units. Acquisition of Units by the Board of Managers or its designee, on behalf of applicable Unit Owners may be made from working capital and Common Charges in the hands of the Board of Managers, or if such funds are insufficient, the Board of Managers, may levy an assessment against each Unit Owner in proportion to its Common Interest, which assessment shall be enforceable in the same manner as provided in Sections 5.4 and 5.5 of these By-laws, or the Board of Managers, in its discretion, may borrow money to finance the acquisition of such Unit, provided, however, that no financing may be secured by an encumbrance or hypothecation of any property other than the Unit, together with the Appurtenant Interests, so to be acquired by the Board of Managers.

Section 9.4 Waiver of Right of Partition with Respect to Such Units as Are Acquired by the Board of Managers. In the event that a Unit shall be acquired by the Board of Managers, or its designee, on behalf of all applicable Unit Owners as tenants in common, all such Unit Owners shall be deemed to have waived all rights of partition with respect to such Unit.

Section 9.5 Payment of Assessments. No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate or sell its Unit, unless and until it shall have paid in full to the Board of Managers, all unpaid Common Charges and assessments theretofore assessed by the Board of Managers, as applicable, or otherwise against its Unit and satisfied or caused to be removed of record, all unpaid liens against such Unit. The Unit Owner may,

however, use the proceeds of any such sale or mortgage to pay these expenses. In addition, each Unit Owner shall be obligated to pay any fee authorized by the Board of Managers, to be paid to the managing agent of the Condominium for services performed in connection with processing an application for the sale or lease of said Unit.

10. Condemnation

Section 10.1 Action to Contest Condemnation. The Board of Managers shall have the exclusive right to contest any condemnation or eminent domain proceeding which is directed at taking any portion of the Common Elements or which touches upon, concerns or affects the use of the Common Elements. No Unit Owner or tenant of a Unit shall impair or prejudice the action of the Board of Managers in contesting such condemnation. Such restriction or prohibition shall not preclude a Unit Owner (or tenant of all or substantially all of a Unit, if permitted in such tenant's lease), from contesting the taking in such condemnation or eminent domain proceeding, through the Board of Managers, of its Unit, or of any trade fixtures or other equipment installed or located in the Unit. In any action contesting a taking by condemnation or eminent domain proceeding, the Board of Managers shall request the court to set forth the allocation of the condemnation award among the Unit Owners affected, taking into account their respective Common Interests, the effect of the taking on each Unit affected thereby and any other relevant factors.

Section 10.2 Obligation to Restore. In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements or any Unit, the Board of Managers shall be obligated to restore the Common Elements and all Unit Owners shall be obligated to restore their Units and, provided the Board makes available to the Unit Owners the applicable proportionate share of the condemnation proceeds, any Limited Common Elements appurtenant to their Units. The foregoing obligation of the Board and the Unit Owners shall not be applicable, however, if the Property is subject to an action for partition in accordance with law or these By-laws or the Declaration. Notwithstanding the foregoing, the Board shall delegate the foregoing restoration responsibility to the Unit 1 Owner to the extent the taking concerns the Unit 1 Area exclusively, and to the Unit 2 Owner to the extent the taking concerns the Unit 2 Area exclusively. If the taking involves the Unit 1 Area and General Common Elements, or the Unit 2 Area and General Common Elements, or the Unit 1 Area and the Unit 2 Area, or all three categories, then all restoration work shall be undertaken by the Board in cooperation with the Unit Owners. All condemnation awards shall be used for restoration and reconstruction of the interest taken. The Board of Managers may engage a construction manager or general contractor to coordinate the work necessary to complete the restoration of the Unit(s), Limited Common Elements and the General Common Elements as in the case of a casualty, and the cost thereof shall be a Common Expense.

Section 10.3 Partition Action in Lieu of Continuation of Condominium After Partial Taking by Condemnation. If any condemnation or eminent domain proceeding results in the taking of: at least 75% of the Property, and Unit Owners do not unanimously agree to continue the Condominium, then the Property or so much thereof as shall remain, shall be subject to an action for partition at the suit of any Unit Owner or lien or as if owned in common in which event the net proceeds of sale arising out of the partition action, together with the net proceeds of the award from the condemnation or eminent domain

proceeding shall be considered one fund and shall be divided by the Board of Managers among all the Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of such Owner's share all liens on such Owner's Unit, in the order of priority of such liens.

Section 10.4 Distribution of Condemnation Awards.

a. Except (i) as provided in Section 10.3 above, and (ii) with respect to any award obtained directly by a Unit Owner or occupant for the Unit or for any trade fixtures or other equipment as further provided in Section 10.1 above, in the event all or part of the Common Elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to an Insurance Trustee (as defined in Article 6 of these By-laws) selected by the Board of Managers if the award is more than $1,000,000.00 and to the Board of Managers if the award is $1,000,000.00 or less. (This $1,000,000.00 limit shall automatically increase each calendar year by 5% over the limit of the previous year.) The Board of Managers shall arrange for the repair, restoration or replacement of such Common Elements to the extent reasonably possible, and shall instruct the Insurance Trustee to disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments, in the same manner as if the Common Element were destroyed by casualty, as more fully set forth in Article 6 of these By-laws.

b. If there shall be a surplus of such proceeds or if the Board of Managers cannot reasonably repair, restore or replace the Common Elements taken, the proceeds shall be distributed among the Unit Owners, and the Common Interest of the Condominium shall be reallocated among the remaining Units as the court shall have directed or as the Board of Managers shall equitably determine if there was no direction by the court, taking into account in the latter event the respective Common Interest of the Units affected thereby, the effect of the taking on each Unit affected thereby after the completion of any repair, restoration or replacement by the Board of Managers, and any other relevant factors. Any court direction as to such distribution shall be final. Any Unit Owner or tenant who wishes to contest a determination by the Board of Managers, shall do so by submitting the matter to Arbitration as provided in Article 11 of these By-laws, for a determination of a fair and proper distribution, or reallocation of Common Interest, as the case may be, which shall be binding on the Board of Managers, and on all Unit Owners and tenants. The cost of such Arbitration shall be borne solely by the Unit Owner or tenant submitting the matter for Arbitration.

c. After any determination of reallocation of Common Interest, the Board of Managers, on behalf of all Unit Owners, shall promptly prepare, execute and record an amendment to the Declaration reflecting such reallocation.

11. Arbitration

Section 11.1 Applicability. If pursuant to the provisions of these By-laws or the Declaration, a Unit Owner shall request the consent of the Board, or of another Unit Owner, and if one or more entities or Unit Owners shall fail or refuse to give such consent, and conversely, if the Board, shall request the consent of a Unit Owner or another entity and the Unit Owner or entity shall fail or refuse to give such consent, the party seeking consent shall not be

entitled to any damages for any withholding by any other party of its consent, it being understood that a party's sole remedy to dispute another party's determination (or failure to make a determination), shall be by submitting same to arbitration in accordance with the provisions of this Article 11 (hereinafter "Arbitration"). In such instances Arbitration shall be available only in those cases where the Declaration or these By-laws requires that the applicable party not unreasonably withhold or delay its consent, or where as a matter of law the party may not unreasonably withhold or delay its consent. Arbitration also shall be applicable in all other instances pursuant to these By-laws or the Declaration where a dispute may or must be resolved through Arbitration, and in any event shall apply to a dispute between the Unit 2 Owner and the Unit 1 Owner and/or either of them with the Board with respect to an amount to be paid for Common Charges or as to the amount of a particular Common Expense or assessment or other amounts to be paid pursuant to the Condominium Instruments.

Section 11.2 Appointment of Arbitrators.

a. (i) In any circumstance for which Arbitration is required or permitted under the Declaration or these By-laws, the party desiring Arbitration shall give written notice to such effect to the other party and shall in such notice appoint a person as arbitrator on its behalf. In said notice the party originating the Arbitration must also provide a statement of the claim or issue to be arbitrated, which statement must frame the matter clearly in a manner enabling the other parties to the Arbitration (as well as the arbitrators), to understand the question sufficiently to prepare and evaluate responsive positions. Within three (3) business days after such notice is given, the other party by written notice to the original party shall appoint a second person as arbitrator on such other party's behalf. If within three (3) business days following the appointment of the latter of said arbitrators, said two (2) arbitrators shall be unable to agree in respect of said matter, the said arbitrators shall, no later than three (3) business days after the end of their initial 3-day determination period, appoint by instrument in writing, a third person, as an impartial arbitrator, who shall proceed with the two (2) arbitrators first appointed to determine the matter.

(ii) If the party responding to a notice to arbitrate shall be unable to secure an arbitrator satisfying the criteria set forth in this Article 11 within the 3-day time period provided in the foregoing paragraph, the responding Unit Owner (or Board) shall automatically be entitled to an additional three (3) business days to secure an arbitrator. A Unit Owner utilizing this provision (ii) shall advise the party originating the Arbitration accordingly.

b. Subject to the provisions of Section 11.2(a)(ii), if after notice of the appointment of the first arbitrator is given, the second arbitrator shall not have been appointed as aforesaid, then the party originating the Arbitration may apply for the appointment of an arbitrator in the manner hereinafter provided for the appointment of a third arbitrator in the case where the two arbitrators chosen hereunder are unable to agree upon such appointment.

c. If the two (2) initially-appointed arbitrators shall be unable to agree within three (3) business days following the appointment of the latter of said arbitrators upon the matter in dispute and, in the event of the foregoing circumstance, if they shall fail to agree on an arbitrator to serve as the third arbitrator as aforesaid, then either party may apply to the American Arbitration Association ("AAA") or any successor organization (or if such organizations shall

fail, refuse or be unable to act, to a court of competent jurisdiction in the State of New York) for the designation of such arbitrator, in which event the AAA shall submit to the parties, within five (5) business days after the request of the AAA, a list of six names, to which each party shall be required to respond within three (3) business days for their right to exercise one peremptory challenge each, and with the AAA to be instructed to appoint such third arbitrator within three (3) business days after the expiration of the period during which each party may make a peremptory challenge.

d. If any arbitrator appointed by either of the parties, by the AAA (or any successor organization), or court, or by the other two (2) arbitrators, shall die, become disqualified or incapacitated, or shall (for reasons beyond his or her control) fail to act, before such matter shall have been determined, a substitute arbitrator shall promptly be appointed by the person or persons who appointed the arbitrator who shall have died, become disqualified or incapacitated or who shall have failed to act, and if a substitute arbitrator is not so named within three (3) business days after such death, disqualification, incapacity or failure to act, such substitute arbitrator shall be appointed by application to the AAA, as described in subsection (c) above.

Section 11.3 Qualification of Arbitrators. Each arbitrator shall be a person who shall have had at least ten (10) years' continuous experience in the County of New York in a calling connected with the matter of the dispute (e.g., in the management or operation of Buildings in Manhattan of the use and nature of the Property, or in construction and/or architectural or engineering endeavors, the operations of condominiums, etc.), shall be associated with a firm engaged in such business and shall not be a sole practitioner, and when required by law or regulation pertaining to practice of the profession or trade, shall be licensed to practice in New York. Any third arbitrator appointed in accordance with this Article 11 shall be impartial and shall not then be employed or controlled by, controlling or under common control with any member of the Board of Managers, any Unit Owner, any manager or managing agent of the Condominium or any Area thereof, or any affiliates of the foregoing.

Section 11.4 Procedures.

a. Arbitration shall be conducted, to the extent consistent with the Declaration and these By-laws, in accordance with the then prevailing Commercial Arbitration Rules for Expedited Procedures of the AAA (as of the date of this Declaration, AAA Rules and Regulations E1-E10), other than (i) rules relating to the appointment of arbitrators, and such other procedures as are explicitly set forth in this Article 11 or are agreed to by the parties; (ii) time periods for appointments, actions and the rendering of decisions as are set forth in this Article 11 (which shall supercede such periods set forth in the AAA Rules and Regulations); and (iii) the parties agree that any dispute shall be handled under the Expedited Procedures, regardless of amount. All parties shall have the right to appear and be represented by counsel before the appointed arbitrators and to submit such data and memoranda in support of their respective positions in the matter in dispute as they may deem necessary or appropriate in the circumstances.

b. In the event a third arbitrator is appointed, as described above, the arbitrators shall be instructed to hold a hearing within fifteen (15) business days of the third

arbitrator's appointment and to render a decision within five (5) business days after the hearing. In all Arbitrations, the written decision of any two arbitrators in accordance with the foregoing, shall be final and binding upon the parties to the Arbitration and judgment may be entered thereon in any court of competent jurisdiction. In rendering their decision, the arbitrators shall have no power to modify any of the provisions of the Declaration or these By-laws, and the jurisdiction of the arbitrators is limited accordingly, it being specifically understood that in no event shall the arbitrators have the authority to award damages.

c. Arbitrators appointed pursuant to this Article 11 shall use as a standard in arriving at their determination the specific provisions of the Condominium Instruments and the particular and general intent of the Condominium Instruments and shall then consider a course of action that is most prudent and appropriate for such a structure owned under a condominium regime.

Section 11.5 Costs and Expenses. In any Arbitration the losing party shall pay the fees and disbursements of the arbitrators and all other costs associated with the Arbitration, except for the legal fees and disbursements, and out-of-pocket expenses of the other parties involved in the Arbitration, except that in an instance where the Board is the losing party, the Unit Owner who opposed the Board's position shall not be obligated to pay any portion of the costs or expenses (including, without limitation, legal fees) of the Board in connection with the Arbitration, and the Unit Owner who supported the losing side shall indemnify and hold the other Unit Owner harmless against all such costs and expenses of the Board.

Section 11.6 Agreement by Parties. The parties to any dispute required or expressly permitted to be submitted to Arbitration under these By-laws or the Declaration, may, by mutual written agreement between them, vary any of the provisions of this Article 11 with respect to the Arbitration of such dispute, or may agree to resolve their dispute in any other manner.

12. Records and Audits

Section 12.1 Records and Audits Concerning the Condominium.

The Board of Managers or the Condominium's Managing Agent shall be required to keep detailed records of the actions of the Board of Managers and the Managing Agent, minutes of the meetings of the Board of Managers, minutes of the meetings of the Unit Owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures arising from the operation of the General Common Elements, as well as a separate account for each Unit which, among other things, shall contain the amount of each assessment of Common Charges against such Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. Such records, as well as vouchers authorizing payments, shall be available for examination by Unit Owners at convenient weekday hours on reasonable notice to the Board, but not more often than once a month.

Section 12.2 Annual Statements.

a. An annual report of the receipts and expenditures of the Condominium, audited by an independent certified public accountant, shall be rendered by the Board of

Managers to all Unit Owners, promptly after the end of each fiscal year. Such report also shall include statements pertaining to (i) review of the recordkeeping procedures, (ii) a check of bank balances, and (iii) verification that Common Expenses have been properly allocated in accordance with the By-laws.

b. The cost of the annual report and other services required by Section 12.2(a) of these By-laws, shall be a Common Expense.

c. Accountant or accounting firm.

Section 12.3 Availability of Records and Legal Documents. The Board of Managers, shall make available for inspection upon reasonable notice and during normal business hours, to existing and prospective purchasers, tenants, mortgagees, mortgage insurers and mortgage guarantors, current copies of the Condominium's Declaration, By-laws, Rules and Regulations, budget, schedule of assessments and any financial statements of the Condominium. The Board, may furnish copies of such documents to such parties and may charge a reasonable fee to cover the cost of furnishing such copies.

Section 12.4 Operating Expenditures of Condominium and Unit 1 Area. Both the Board of Managers of the Condominium as to expenses of operation of the Condominium and the Unit 2 Owner as to costs and expenses of the operation of the Unit 2 Area, shall maintain records of the actual expenses of operation of the Property, including the Buildings, to the extent operation or maintenance are their respective responsibilities, and, upon request of the Unit 1 Owner, give access to such records for a particular period and deliver such information, together with reasonable supporting documentation, relating to such expenses of the Board and of the Unit 2 Owner, respectively, whether or not such expenses are the responsibility of the Board or of the Unit 2 Owner, but still pertain to operation of the Property. This Section 12.4 shall not pertain and shall be of no further force and effect after November 11, 2034.

13. Amendments to By-laws

These By-laws may only be amended in the same fashion as an amendment to the Declaration. No amendment to these By-laws shall be effective unless and until the change is set forth as an amendment to the Declaration and is recorded in the Recording Office.

14. Conflicts

Section 14.1 Generally. These By-laws are set forth to comply with the requirements of Article 9-B of the New York Real Property Law. In case any of these By-laws conflict with the provisions of said statute or of the Declaration, the provisions of said statute or of the Declaration, as the case may be, shall control.

15. General

Section 15.1 Notices.

a. All notices required or desired to be given hereunder shall be sent by registered or certified mail. All notices to the Board of Managers and the managing agent, if any,

shall be sent to them at the Property or to such other address as any of the foregoing entities may hereafter designate from time to time, in writing to each other and to all Unit Owners and to all Permitted Mortgagees of Units to the extent such Permitted Mortgagees have requested such notice. All notices to any Unit Owner shall be sent by registered or certified mail to the address of the Buildings, or to such other address as may have been designated by him, her or it from time to time, in writing, to the Board of Managers. All notices to Permitted Mortgagees of Units or of leases of all or substantially all of a Unit shall be sent by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the Board of. All notices shall be deemed to have been given five (5) days after mailing, except notices of change of address which shall be deemed to have been given when received.

b. Whenever any notice is required to be given by law, the Declaration or these By-laws, a waiver thereof, in writing, signed by the person(s) entitled to such notice, whether before or after the times stated therein, shall be deemed the equivalent thereof.

Section 15.2 Real Estate Taxes.

a. During any interim period following recordation of the Declaration when individual tax lots legally will be established of record for each Unit but during which time separate real estate tax assessments and real estate tax bills for each tax lot have not yet been issued (the "Interim Period"), real estate taxes shall be allocated to each Unit based on real estate taxes assessed against the entire Property. During this Interim Period each Unit's proportionate share of real estate taxes assessed against the entire Property will be based on the Common Interest appurtenant to the Unit. If at the time the Units are separately assessed, it is determined that the assessing authority used a method other than allocation of the Property assessment among all Units based on Common Interests, the allocations made during the Interim Period will be adjusted to incorporate the method of assessment used by the assessing authority and any necessary reimbursements shall be made.

b. The Board of Managers shall have the right accorded boards of managers in Section 339-y of the Condominium Act to act as an agent for each Unit Owner who gives the Board written authorization to seek administrative and judicial review of the real estate tax assessment for such Owner's Unit. The Board accordingly may retain legal counsel on behalf of the Unit Owners for which it is acting as agent, and charge all such Unit Owners a pro rata share of expenses, disbursements and legal fees, for which charges the Board shall have a lien pursuant to Section 339-z of the Condominium Act.

Section 15.3 Indemnification by Unit Owners. Each Unit Owner shall indemnify and hold harmless each other Unit Owner, its partners, officers, directors, agents, tenants and employees, the Board of Managers and all officers, members, agents (including but not limited to the managing agent), and employees thereof and all officers, members, agents (including but not limited to the managing agent), and employees thereof, and all officers, members, agents (including but not limited to the managing agent), and employees thereof, from and against any and all claims arising from or in connection with (a) the conduct or management of the Unit or any business therein, or any construction or other work or thing whatsoever done or any condition created therein during the time of the Unit Owner's ownership, (b) the negligence, willful misconduct, or bad faith actions or failures to act, or the breach of any of the

provisions of the Declaration or these By-laws by the Unit Owner or any of its or their tenants or licensees or their partners, officers or directors, and their agents, employees or contractors, and (c) any accident, injury or damage whatever occurring in, at or upon the Unit and/or Limited Common Elements appurtenant thereto (except and to the extent caused by the party claiming the indemnification hereunder or its partners, officers, directors, agents, tenants or employees). Nothing contained in this Section 15.3 or elsewhere in these By-laws shall entitle a Unit Owner to consequential damages under actions or proceedings brought pursuant to this or any other provision in these By-laws or in the Declaration.

Section 15.4 Force Majeure. Except to the extent specifically provided otherwise in these By-laws or the Declaration, the obligations of the Board of Managers, or any Unit Owner pursuant to the Declaration or these By-laws shall be in no way affected, impaired or excused, nor shall the Board of Managers, or any Unit Owner be liable to any other Unit Owner, the Board of Managers, as applicable, because (i) the Board, or the Unit Owner is unable to fulfill, or is delayed in fulfilling, any of its obligations under the Declaration or these By-laws, by reason of strike, lock-out or other labor troubles, governmental preemption or priorities or other controls in connection with a national or other public emergency, or shortages of fuel, supplies or labor resulting therefrom, or any other cause, whether similar or dissimilar, beyond the applicable party's reasonable control, or (ii) of any failure or defect in the supply, quantity, or character of any utility or service furnished to the Unit or Common Elements, as applicable, beyond the applicable party's reasonable control, provided, however, that the Unit Owner or the Board of Managers, as applicable, makes reasonable efforts to meet their obligations, notwithstanding the foregoing.

Section 15.5 Invalidity. The invalidity of any part of these By-laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-laws.

Section 15.6 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-laws, or the intent of any provision thereof.

Section 15.7 Plurals. The use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 15.8 Waiver. No restriction, condition, obligation, or provision contained in these By-laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 15.9 Further Assurances. All parties who are subject to these By-laws, shall, at the expense of any other party subject to these By-laws, execute, acknowledge and deliver to said party, such instruments, in addition to those provided for specifically in these By-laws, and take such other action, as such other party may reasonably request, in order to effectuate the provisions of these By-laws or any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

Section 15.10 Captions. The captions in the Condominium Instruments are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision thereof.

SCHEDULE E

SCHEDULE E PROVISIONS

Following are redacted provisions from the LIJ Lease, with Article and Section references being to the LIJ Lease, prior to amendment. The Unit 1 Owner and the Unit 2 Owner shall at all times be obligated to maintain complete copies of the LIJ Lease, as amended, and to provide portions of same to the Board upon request as may reasonably be required to be available for reference only to the extent needed with respect to identifying rights and obligations pursuant to the Schedule E Provisions.

ARTICLE III

Use of the Demised Premises

3.01. Tenant shall use and occupy the Demised Premises for a comprehensive medical facility, medical research facility (including animal research), rehabilitation and treatment facility, medical education and/or laboratory facility, general, executive, administrative and medical offices and for related and incidental purposes thereto (hereinafter the "Permitted Use"), and for no other purpose. Notwithstanding the foregoing:

3.01.1. in no event shall Tenant use, or suffer the use by Tenant's subtenants of, the Demised Premises for animal research in more than 40,000 of square feet of Rentable Area of the Demised Premises, subject further to any zoning restrictions;

3.01.2. in no event shall Tenant use, or suffer the use by Tenant's subtenants of, the Demised Premises in violation of any Requirements;

3.01.3. the Warehouse Premises may be used only for general offices, warehouse and/or storage use only for the transaction of Tenant's business and for no other purpose; and

3.01.4. the South Annex Premises may be used to contain Tenant's electrical generator(s) and ancillary equipment serving the Demised Premises and for any purpose otherwise permitted under this Lease, provided that Tenant acknowledges that the South Annex Premises is being delivered to Tenant "as-is, where is and with all faults" in its present condition with no representations or warranties by Landlord as to the legality or feasibility of such space for any use and that Landlord will have no obligation to repair, maintain or comply with Requirements with respect to such space.

3.02. Tenant shall not use the Demised Premises or any part thereof, or permit the Demised Premises or any part thereof to be used, (1) for any industrial use, (2) for the business of photographic, multilith or multigraph reproductions or offset printing that is open to the general public on an off-the-street retail basis, (3) for a banking, trust company, depository, guarantee or safe deposit business, in each case conducting business with the general public on an off-the-street retail basis, (4) as a savings bank, a savings and loan association, or as a loan company, in each case conducting business with the general public on an off-the-street retail basis (provided that the foregoing shall not be deemed to restrict Tenant from installing any ATM machines within the Demised Premises for use by Tenant's employees, invitees and licensees), (5) for the sale of travelers checks, money orders, drafts, foreign exchange or letters

of credit or for the receipt of money for transmission in each case conducting business with the general public on an off-the-street retail basis, (6) as (y) a stockbroker's or dealer's office or for the underwriting or sale of securities, in each case conducting business with the general public on an off-the-street retail basis or (z) as a financial advisor, (7) by the United States government, any foreign government, the United Nations or any agency or department of any of the foregoing or any other Person having sovereign or diplomatic immunity, (8) as a restaurant or bar, night club, bowling alley, theater, billiard parlor or other place of recreation or amusement, or any business serving alcoholic beverages, (9) for the sale of confectionery, soda or other beverages, sandwiches, ice cream or baked goods or for the preparation, dispensing or consumption of food or beverages in any manner whatsoever, except as expressly permitted in Section 19.12 hereof, (10) as an employment agency, executive search firm or similar enterprise, labor union, school, or vocational training center (except for the training of employees of Tenant), (11) as a barber shop or beauty salon that in either case conducts business with the general public on an off-the-street retail basis, (12) as a health club, fitness facility open to the public (provided that the foregoing shall not be deemed to restrict Tenant from using the Demised Premises, or any portion thereof, for physical or cardiac therapy services) or (13) as a manufacturing facility.

3.03. Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy, the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the certificate of occupancy and/or compliance for the Demised Premises or for the Building. Tenant shall not permit the Demised Premises to be used or operated in violation of any Requirements including governmental requirements, laws, rules and/or regulations or requirements of the New York Board of Fire Underwriters, or of the Town of North Hempstead or Village of Lake Success or of any other Requirements, rules and/or regulations of any Governmental Authority.

.....

3.05. Tenant agrees that Tenant's use of the Demised Premises shall not include any emergency room or other service that requires regular emergency ambulance traffic to the Property and Tenant shall not suffer or permit the regular presence of such ambulance vehicles on the Property for such purposes.

ARTICLE XII

Electricity and Gas

12.01. Except as otherwise provided in this Article XII, Landlord shall provide Tenant with the greater of (x) the capacity provided in the work described on Exhibit C-1 and (y) 5 watts demand load per square foot of Rentable Area of the Demised Premises for Tenant's lighting and equipment (not including the HVAC units, which shall be allocated 7 watts demand load per square foot of Rentable Area of the Demised Premises) and Tenant covenants and agrees that except as hereinafter provided, at all times its use of electric current for lighting, equipment and HVAC shall not exceed such above stated capacities. Tenant shall have the exclusive right to use the electricity provided by the four (4) 1333 KVA unit substations described on Exhibit C-1. Tenant agrees that it shall not use any electrical equipment which will overload such installations and Tenant shall at all times comply with the rules, regulations, terms and conditions applicable to service, equipment, wiring and requirements of the utility company supplying electricity to the Building. Tenant, at Tenant's sole cost and expense, shall contract directly with LIPA (or any other first class utility company providing electricity reasonably acceptable to Landlord) to

obtain electricity for the Demised Premises. If Tenant desires to perform the work necessary for Tenant's aforesaid direct arrangement with LIPA (or such other first class utility company providing electricity reasonably acceptable to Landlord), such work shall be performed subject to the provisions of Article V hereof at Tenant's sole cost and expense. If requested by Tenant, Landlord shall perform the work necessary for Tenant's aforesaid direct arrangement with LIPA (or such other first class utility company providing electricity reasonably acceptable to Landlord), which work shall be at Tenant's sole cost and expense (the "Direct Electric Metering Work"). Tenant shall pay to Landlord the actual documented cost to Landlord for the Direct Electric Metering Work in respect of such work plus (i) seven percent (7%) of said cost for Landlord's overhead plus (ii) three percent (3%) of said cost for Landlord's profit plus (iii) Landlord's actual cost of insurance (collectively the "Direct Electric Metering Costs and Fees"). Within forty-five (45) days of notice or demand, in each instance, Tenant shall make progress payments to Landlord on account of any amounts owing for Direct Electric Metering Costs and Fees, based upon Applications for Payment in the AIA Document G702 form therefor submitted to Landlord's architect by Landlord's general contractor and Certificates for Payment in the AIA Document G702 form issued by Landlord's architect. Any other costs and expenses arising from Tenant directly contracting with LIPA (or such other first class utility company providing electricity reasonably acceptable to Landlord) shall be paid by Tenant. Any costs and expenses arising from Tenant directly contracting with LIPA (or such other first class utility company providing electricity reasonably acceptable to Landlord) shall be paid by Tenant. Tenant's use of electricity from the Demised Premises shall be measured by a direct meter (the "Electric Meter") that will be installed by Tenant as part of Tenant's Initial Improvements, which Electric Meter shall measure electric current to the Demised Premises. Unless Tenant elects to have Landlord provide electricity on a submetered basis, as provided below, Landlord shall have no obligation to provide any electricity for the Demised Premises or Tenant's use and occupancy thereof.

12.02. In the event that Tenant desires to have Landlord provide submetered electricity in lieu of Tenant purchasing such electrical power directly from LIPA (or such other first class utility company providing electricity reasonably acceptable to Landlord), then Landlord will reasonably cooperate with Tenant to provide such electrical power on such submetered basis to the extent possible in which case:

12.02.1. Tenant will reimburse Landlord for all out-of-pocket costs and expenses incurred by Landlord in installing any submeters ("Electric Submeter(s)") and other infrastructure and equipment required to provide and submeter the Demised Premises for electricity. Tenant shall so reimburse Landlord for such amounts within thirty (30) days after Landlord's request therefor (it being understood that Landlord shall include in such request reasonable supporting evidence therefor).

12.02.2. Tenant shall pay to Landlord, as Additional Rent hereunder, within thirty (30) days after demand made from time to time but no more frequently than monthly, for its use of electric energy in the Demised Premises as evidenced by the aforesaid Electric Submeter(s), based upon both consumption and demand factors, at the seasonably adjusted and applicable rate and pricing schedules of the incumbent local utility distribution companies for delivery and supply of electric energy plus an amount for each meter per month equal to the greater of (i) $700 and (ii) Landlord's actual cost of Landlord's overhead, administration, and supervision in connection with such electric meters; provided that in no event shall such amount in (ii) be greater than that amount which equals $700 escalated each calendar year in the same

proportion to any increase in the CPI for each such subsequent calendar year above the calendar year in which the Commencement Date occurred. For purposes of this Section 12.02.2, the rate to be paid by Tenant shall include any additional charges actually imposed in connection therewith by the utility company.

12.03. Tenant, at Tenant's sole cost and expense, shall contract directly with KeySpan Energy (or its affiliates, "KeySpan") to obtain gas for the Demised Premises. Tenant shall perform the work necessary for Tenant's aforesaid direct arrangement with KeySpan, which work shall be at Tenant's sole cost and expense, but shall be performed subject to the provisions of Article V hereof. Any costs and expenses arising from Tenant directly contracting with KeySpan shall be paid by Tenant. Tenant's use of gas from the Demised Premises shall be measured by a direct meter (the "Gas Meter") that will be installed by Tenant as part of Tenant's Initial Improvements, which Gas Meter shall measure gas to the Demised Premises. Unless Tenant elects to have Landlord provide gas on a submetered basis, as provided below, Landlord shall have no obligation to provide any gas for the Demised Premises or Tenant's use and occupancy thereof.

12.04. In the event that Tenant desires to have Landlord provide submetered gas in lieu of Tenant purchasing such gas directly from KeySpan, then Landlord will reasonably cooperate with Tenant to provide such gas on such submetered basis to the extent possible in which case:

12.04.1. Tenant will reimburse Landlord for all out-of-pocket costs and expenses incurred by Landlord in installing any submeters ("Gas Submeter(s)") and other infrastructure and equipment required to provide and submeter the Demised Premises for gas. Tenant shall so reimburse Landlord for such amounts within thirty (30) days after Landlord's request therefor (it being understood that Landlord shall include in such request reasonable supporting evidence therefor).

12.04.2. The Gas Submeter(s) shall measure gas usage for the HVAC units servicing the Demised Premises in the manner provided for in this subdivision and as otherwise expressly set forth in Exhibit C-1 (and, if applicable, Exhibit C-2) to this Lease. Tenant shall pay to Landlord, as Additional Rent hereunder, within thirty (30) days after demand made from time to time but no more frequently than monthly, for its actual cost of gas energy in the Demised Premises as evidenced by the aforesaid Gas Submeter(s), based upon both consumption and demand factors, at the seasonably adjusted and applicable rate (at the Landlord's actual monthly rate) and pricing schedules of the incumbent local utility distribution companies for delivery and supply of natural gas energy plus (i) an amount equal to 1.5% of such monthly cost for Landlord's overhead, administration, and supervision in connection therewith and plus (ii) an amount for each meter per month equal to the greater of (y) $700 and (z) Landlord's actual cost of Landlord's overhead, administration, and supervision in connection with such gas meters; provided that in no event shall such amount in (z) be greater than that amount which equals $700 escalated each calendar year in the same proportion to any increase in the CPI for each such subsequent calendar year above the calendar year in which the Commencement Date occurred. For purposes of this Section 12.04.2, the rate to be paid by Tenant shall include any additional charges actually imposed in connection therewith by the utility company.

12.05. If Landlord shall then be furnishing same to Tenant, and if any tax (other than any income or similar tax) is imposed upon Landlord's receipts from the sale or resale of electrical energy or gas to Tenant by any federal, state, city or local authority, the pro-rata share of such tax allocable to the electrical or gas energy service received by Tenant shall be

passed onto and paid by Tenant as Additional Rent if and to the extent permitted by law provided that Landlord has provided Tenant with reasonable substantiating documentation showing such tax. If the Electric Submeter(s) (in the case where Tenant has elected to have its electricity submetered) or Gas Submeter(s) (in the case where Tenant has elected to have its gas submetered) should fail to properly register or operate at any time during the term of this Lease for any reason whatsoever, Landlord may estimate in good faith the electricity and gas and when the Electric Submeter(s) and Gas Submeter(s) are again properly operative, an appropriate reconciliation shall be made by Tenant paying any deficiency to Landlord within twenty (20) days after demand therefor, or by Landlord paying any overpayment to Tenant within twenty (20) days. The periods to be used in the aforesaid computation shall be as Landlord, in its reasonable discretion, may from time to time elect. When more than one meter measures the electric or gas service rendered, each meter may be computed and billed at Landlord's option, separately, as above set forth, or cumulatively. Bills for Additional Rent arising from electricity and gas usage shall be rendered to Tenant no less frequently than quarterly.

12.06. If either the quantity or character of electrical or gas service is changed by the public utility corporation supplying electrical or gas service to the Building (the "Utility Company") or is no longer available or suitable for Tenant's requirements, no such change, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or Landlord's agents unless such change, unavailability or unsuitability (i) renders the Demised Premises Untenantable and (ii) is due to negligent and/or willful acts or omissions of Landlord or Landlord's contractors, licensees, invitees, agents and employees acting within the scope of their employment. If the supply of electricity or gas to the Demised Premises is interrupted or temporarily reduced solely due to the negligence or willful misconduct of Landlord or Landlord's contractors, licensees, invitees, agents and employees acting within the scope of their employment, Landlord shall be responsible for restoring such supply and Tenant shall be entitled to avail itself of remedy provided to Tenant in Section 6.03, if and to the extent applicable. Landlord shall have full and unrestricted access to all base building air-conditioning and heating equipment, and to all other utility installations servicing the Building and the Demised Premises, and Landlord shall give Tenant reasonable notice (except in the case of an Emergency) prior to working with any of the aforementioned items within the Demised Premises. Landlord reserves the right temporarily to interrupt, stop or suspend air-conditioning and heating service, and all other utility or other services, because of Landlord's inability to obtain, or difficulty or delay in obtaining, labor or materials necessary therefor, or in order to comply with governmental restrictions in connection therewith, or for any other cause beyond Landlord's reasonable control. No diminution or abatement of Base Rent, Additional Rent or other compensation shall be or will be claimed by Tenant, nor shall this Lease or any of the obligations of Tenant hereunder be affected or reduced by reason of such interruptions, stoppages or curtailments the causes of which are hereinabove enumerated, nor shall the same give rise to a claim in Tenant's favor that such failure constitutes actual or constructive, total or partial eviction from the Demised Premises, unless such interruptions, stoppages or curtailments have been due to the arbitrary, willful or negligent act, or failure to act where required to do so hereunder, of Landlord.

12.07. Landlord reserves the right to discontinue furnishing electric or gas energy to the Demised Premises at any time upon not less than ninety (90) days notice to Tenant and if

Landlord is providing electrical power to the Demised Premises on a submetered basis, Landlord agrees to pay any expenses incurred by Tenant to obtain such new electrical service (except that if Tenant shall be unable, after reasonable and diligent efforts, to obtain electric or gas service from the Utility Company within said ninety (90) day period, Landlord shall continue to furnish electricity and gas to Tenant until such time as Tenant shall obtain electric or gas service directly from the Utility Company, provided that Tenant shall have used, and at all times shall continue to use, reasonable and diligent efforts to obtain such electrical or gas service). If Landlord exercises such right of termination, this Lease shall continue in full force and effect and shall be unaffected thereby, except only that, from and after the effective date of such discontinuance, (i) Landlord shall not be obligated to furnish electric or gas energy to Tenant and the Base Rent payable under this Lease shall not be reduced and (ii) Tenant's obligation to pay Additional Rent to Landlord for electrical services, if applicable, or gas services, as the case may be, shall abate. If Landlord discontinues furnishing electric or gas energy to Tenant, Landlord shall, prior to the effective date of such discontinuance, at Landlord's sole cost and expense, make such changes to panel boards, feeders, wiring and other conductors and equipment to the extent required to permit Tenant to obtain electric or gas energy directly from the Utility Company. If, on the other hand, Landlord is required by law or other applicable requirements of governmental entities having jurisdiction over the Building to discontinue furnishing electric or gas energy to Tenant, as a result of a use by Tenant which is not consistent with the use provisions of Article III hereof, Tenant shall reimburse Landlord within thirty (30) days after Landlord renders a bill for the cost incurred by Landlord in making such changes to panel boards, feeders, wiring and other conductors and equipment to permit Tenant to obtain electric or gas energy directly from the Utility Company.

12.08. Tenant covenants that at no time shall the use of electrical energy in the Demised Premises exceed the capacity being provided to Tenant pursuant to Section 12.01 above. If Tenant requires additional electrical capacity, Landlord shall, subject to this paragraph and in particular to Landlord's approval, provide additional capacity, at Tenant's sole cost and expense, provided such additional capacity shall be permitted by all laws, rules and regulations and shall not have a material and adverse effect upon the Building's electrical system or the current or future availability of adequate electrical capacity for the other occupants thereof. Any such request made by Tenant for additional electrical capacity shall not be effective for purposes hereof unless Tenant includes therewith a report, issued by a reputable and independent electrical consultant, at Tenant's sole cost and expense, which outlines in reasonable detail Tenant's additional electrical requirements. Landlord shall at all times be entitled to maintain a reasonable reserve of electrical capacity (taking into account the anticipated electrical needs of present and prospective occupants of the Building) through the then existing electrical equipment at the Building and shall not be required to make available to Tenant any such reserve electrical capacity. If making such additional electrical capacity available to Tenant necessitates the installation of a feeder or wiring or any other proper and necessary equipment, including, without limitation, any switchgear, then Landlord shall perform such installation with reasonable diligence and in accordance with good construction practice, at Tenant's sole cost and expense. Tenant shall also pay any charges imposed by the utility company in connection with providing such additional electrical capacity to the Building.

12.09. Landlord hereby reserves to itself the right, from time to time, to cause an independent reputable electric engineering company to make a survey of Tenant's energy usage to determine whether the 5 watt demand load per square foot (or 7 watt demand load for

HVAC) limitation, as set forth in this Article XII, has been exceeded, and if so, to what extent. If these surveys indicate at any time that Tenant's energy use (excluding heating and air conditioning) exceeds the 5 watts demand load per square foot (or 7 watts demand load for HVAC) limitation provided hereinabove, Tenant shall, upon notice from Landlord, immediately reduce its usage to comply with same, or, at Tenant's sole cost and expense, make such provisions acceptable to Landlord to accommodate said excessive energy usage so as to eliminate any detriment to Landlord and/or said excessive drain or burden on Landlord's electrical supply. The cost of hiring Landlord's electric engineering company shall be borne by Landlord unless it is ultimately determined that Tenant was exceeding its permitted energy usage, in which case Tenant shall bear such cost. Tenant, not later than thirty (30) days following the date upon which Tenant receives the aforementioned notice from Landlord, shall advise Landlord in writing if Tenant is of the opinion that such determination is erroneous. In such event, Tenant shall, at its own expense, obtain from a reputable electric engineering company its own survey of the Demised Premises. Landlord's electric engineering company and Tenant's electric engineering company shall then agree on a final determination. If they cannot agree, they shall choose a third reputable electric engineering company, the cost of which shall be shared equally by Landlord and Tenant, to make a similar survey. The determination by the third company shall be binding upon Landlord and Tenant. If the companies cannot agree on the choice of a third company, said choice shall be referred to an Expedited Arbitration Proceeding. Pending resolution of any dispute, Tenant shall immediately reduce its usage requirements in accordance with the survey provided by Landlord's electric engineering company. Notwithstanding the foregoing, in the event that Landlord installs a self-auditing system, then the electrical usage measured by such system shall be determinative and Tenant shall pay to Landlord as Additional Rent the cost of monitoring the results produced by such system.

12.10. Tenant may, but shall not be required to, purchase from Landlord, lamps (including incandescent and fluorescent), starters, bulbs and ballasts used in the Demised Premises and in that case shall pay Landlord for the cost of providing and installing the same. Landlord agrees that such cost shall be reasonably competitive with prices charged by landlords of comparable buildings in this geographic area. Any lamps, starters and/or ballasts installed by Tenant in the Demised Premises which have not been provided by Landlord shall conform to Landlord's reasonable specifications therefor.

12.11. Landlord's failure during the Term of this Lease to prepare and deliver any statements or bills under this Article XII or Landlord's failure to make a demand under this Article XII or any other provisions of this Lease, shall not in any way be deemed to be a waiver of, or cause Landlord to forfeit or surrender its rights to collect any increase in the Base Rent, or any amount of Additional Rent which may have become due pursuant to this Article XII during the Term of this Lease. Tenant's liability for any amounts due under this Article XII shall continue unabated during the remainder of the Term of this Lease and shall survive

12.12. the expiration or sooner termination of this Lease for a period of twelve (12) months.

12.13. Telephone installation and service shall be the sole responsibility of Tenant, at Tenant's sole cost and expense. Tenant shall make all arrangements for telephone services with the company supplying said service, including the deposit requirement for the furnishing of service. Landlord shall provide access through existing conduits with a clear run for telephone source to the Demised Premises. Landlord shall not be responsible for any delays occasioned by

failure of the telephone company to furnish service. Upon reasonable notice, Landlord shall provide all telephone company employees and all telephone and computer subcontractors with access to the Building equipment and the main telephone distribution system, provided such access shall not have an adverse effect upon the Building equipment or the main telephone distribution system or the current or future availability of adequate telephone capacity for the other occupants thereof.

12.14. Tenant shall have the right at any time following its election to submeter electricity or gas, as provided above, to resume receiving electricity and/or gas directly from the applicable utility company (a "Resumption Election"), provided Tenant shall give Landlord at least one hundred and twenty (120) days prior written notice of any Resumption Election and shall perform all work (in accordance with Requirements and all applicable provisions of this Lease regarding Tenant's Changes) required to resume the provision of electricity or gas to Tenant on a direct basis. Tenant shall be responsible for all actual out-of-pocket costs incurred by Landlord in connection with resuming such direct gas or electrical service.

15.10. Landlord and Tenant agree to use commercially reasonable efforts to obtain real estate tax benefits or incentives as may be available from the Village of Lake Success, Town of North Hempstead, County of Nassau, State of New York or any other Governmental Authority including, without limitation, a so-called PILOT arrangement, and each party agrees to reasonably cooperate with the other in connection with any application for any such real estate tax benefits or incentives (herein collectively called "Benefits"), including, without limitation, the execution and filing of any documentation that may be required for the receipt of such Benefits. The parties hereby agree that with respect to any so-called payment in lieu of taxes ("PILOT") arrangement, Landlord shall be entitled to thirty percent (30%) of the benefit conferred by such arrangement, net of any costs and expenses incurred by Landlord in connection with the procurement of such benefit (including, without limitation, the costs of any public concessions made by Landlord in connection therewith), and Tenant shall be entitled to seventy percent (70%) of the benefit conferred by such arrangement, net of any costs and expenses incurred by Tenant in connection with the procurement of such benefit (including, without limitation, the costs of any public concessions made by Tenant in connection therewith). Such cooperation by the parties shall include, without limitation, the execution of any necessary or appropriate modification to this lease, provided such modification shall not adversely affect any of the rights or benefits of Landlord or Tenant or increase the obligations or liabilities of Landlord or Tenant under this Lease (except to a de minimis extent). It is agreed that Landlord shall only have the right to share such PILOT benefits if, and to the extent, that such benefits reduce the Taxes below the applicable base year.

19.06. Subject to the terms of this Section 19.06, applicable Requirements and any required approvals from Governmental Authorities, Tenant shall have the right to erect and maintain signs identifying Tenant as an occupant of the Demised Premises (and for no other purpose) at locations that are reasonably acceptable to Landlord (any such signs erected by Tenant being collectively referred to herein as "Tenant's Signs"). Tenant's installation of Tenant's Signs shall be performed in accordance with the provisions set forth in Article V hereof. Tenant shall not be permitted to erect or maintain Tenant's Signs if the Tenant-named-herein or its Affiliates do not collectively occupy at least 325,813 square feet of Rentable Area (the

"Minimum Square Footage Requirement"). Tenant, at Tenant's sole cost and expense, shall maintain and repair in good condition any Tenant's Signs that Tenant erects pursuant to this Section 19.06. Tenant shall comply with Landlord's internal signage program, attached hereto as Exhibit H. Tenant, at Tenant's sole cost and expense, shall remove Tenant's Signs promptly upon the earlier to occur of (x) the Expiration Date, and (y) the date that Tenant has no further right to erect or maintain Tenant's Signs pursuant to this Section 19.06, and shall repair any damage caused by the installation of Tenant's Signs or such removal. If Tenant does not satisfy the Minimum Square Footage Requirement, then Landlord shall permit Tenant to erect and maintain such signs that are reasonably necessary to identify Tenant as the occupant of the Demised Premises in accordance with the standard building signage program. If Landlord constructs any above grade parking on the Western Parcel (as such term is defined in the Purchase and Sale Agreement), the Tenant-named-herein shall have the right during the Term, at Tenant's sole cost and expense, to install signage identifying the Tenant-named-herein on such above grade parking structure, which signage is reasonably acceptable to both parties (giving due regard to Tenant's interest in maintaining the presence and visibility of the building of the Demised Premises) and will be maintained by Landlord at Tenant's sole cost and expense.

ARTICLE XXIII

Parking

23.01. Subject to the Rules and Regulations annexed hereto as part of Exhibit K, Tenant and its employees, agents, visitors and licensees shall be only permitted to park in the parking spaces specifically allocated to Tenant pursuant to this Article XXIII and shall not have the right (nor shall any of its employees, agents, visitors and licensees have the right) to use any other parking spaces serving the Building on the Land. Tenant's servants, employees, agents, visitors, and licensees shall park their passenger vehicles, trucks or delivery vehicles only in areas designated by Landlord as areas for such parking. All posted signs governing the use of parking must be honored. Landlord retains the right to ban specific licensed cars from all parking facilities in the event of multiple violations delivered in writing by specific cars driven by Tenant's employees, its invitees or others who claim to be on Landlord's premises for purposes of visiting or performing functions on behalf of Tenant. Notwithstanding anything to the contrary herein, (a) with respect to the Ambulatory Surgery Premises, Tenant shall be allowed a minimum of three hundred and nineteen (319) car spots in the parking lot(s) at the Building (the "Included Ambulatory Surgery Premises Parking"), on a general unassigned basis, at no additional charge, except that twenty-five (25) of these three hundred and nineteen (319) car spots shall be reserved, (b) with respect to the Original Warehouse Premises, Tenant shall be allowed a minimum of fifty (50) car spots in the parking lot(s) at the Building (the "Included Warehouse Premises Parking"), on a general unassigned basis, at no additional charge, except that two (2) of these fifty (50) car spots shall be reserved, (c) with respect to the Warehouse Corridor Premises, Tenant shall be allowed a minimum of four (4) car spots in the parking lot(s) at the Building per 1,000 square feet of Rentable Area of the Warehouse Corridor Premises, on a general unassigned basis, at no additional charge (the "Included Warehouse Corridor Premises Parking"), (d) with respect to the Additional Premises (excluding the South Annex Premises), subject to the terms of Section 23.02, Tenant shall be allowed a minimum of four (4) car spots in the parking lot(s) at the Building per 1,000 square feet of Rentable Area of the Additional Premises (excluding the South Annex Premises), on a general unassigned basis, at

no additional charge (the "Included Additional Premises Parking") and (e) with respect to the South Annex Premises, subject to the terms of Section 23.02, Tenant shall be allowed a minimum of two (2) car spots in the parking lot(s) at the Building per 1,000 square feet of Rentable Area of the South Annex Premises, on a general unassigned basis, at no additional charge (the "Included South Annex Premises Parking"). Landlord shall have no responsibility for maintaining or removing vehicles from any such parking spaces. If Tenant exercises the Early Option, then with respect to the Early Option Space, subject to the terms of Section 23.02, Tenant shall be allowed a minimum of four (4) car spots in the parking lot(s) at the Building per 1,000 square feet of Rentable Area of the Early Option Space, on a general unassigned basis, at no additional charge and such additional parking spaces shall be deemed to be Included Additional Premises Parking.

23.02. The parties acknowledge that as of the Commencement Date, the parking lot at the Building does not contain a sufficient number of parking spaces to provide the Included Ambulatory Surgery Premises Parking, the Included Additional Premises Parking, the Included Warehouse Corridor Premises Parking, the Included South Annex Premises Parking and the additional parking above and hereinafter described, while still leaving sufficient parking to allow for occupancy of the remaining unleased space in the Building; however, Landlord represents and warrants that the parking lot at the Building does contain a sufficient number of parking spaces (including the so-called land bank spaces which may be constructed in accordance with currently applicable Requirements without any further governmental consents or approval, and which Landlord agrees to construct promptly following the Commencement Date, but subject to Section 23.06 below) in order to provide the Tenant's Temporary Dedicated Parking Spaces hereinafter described. In addition, Tenant has requested that Landlord construct, at Tenant's sole cost and expense, additional parking spaces to increase (i) the number of parking spaces allocated to the Ambulatory Surgery Premises so that in total the Ambulatory Surgery Premises is allocated 6.66 parking spaces per 1,000 square feet of Rentable Area of the Ambulatory Surgery Premises (such incremental number of parking spaces above the Included Ambulatory Surgery Premises Parking to be known as the "New Ambulatory Surgery Premises Parking") and (ii) the number of parking spaces allocated to the A Area Premises, the NW Mezzanine Area, and the SW Mezzanine Area so that in total such areas are allocated 7 parking spaces per 1,000 square feet of Rentable Area (such incremental number of parking spaces above the Included Additional Premises Parking to be known as the "New Additional Premises Parking") and (iii) the number of parking spaces allocated to the South Annex Premises so that in total the South Annex Premises is allocated 3 parking spaces per 1,000 square feet of Rentable Area of the South Annex Premises (such incremental number of parking spaces above the Included South Annex Premises Parking to be known as the "New South Annex Premises Parking"). If Tenant gives Landlord notice on or prior to March 1, 2005 that Tenant requests that Landlord construct, at Tenant's sole cost and expense, additional parking spaces to increase the number of parking spaces allocated to the General Use Premises, the Early Option Space (if applicable) and/or the Warehouse Corridor Premises, so that in total such area is allocated 7 parking spaces per 1,000 square feet of Rentable Area, then such incremental number of parking spaces shall be deemed to be added to the New Additional Premises Parking but Landlord shall only be obligated to construct such incremental number of parking spaces for the General Use Premises, the Early Option Space (if applicable) or the Warehouse Corridor Premises, if such additional parking spaces will not impair Landlord's ability to obtain the Parking Lot Approvals to construct the remainder of the New On-Site Parking (as defined below) or Off-Site Parking (as defined

below), as applicable. From and after the Commencement Date, Landlord shall use diligent, good faith and continuous efforts to obtain all required approvals from Governmental Authorities to construct on the Land the parking spaces necessary to satisfy the requirements of the Included Additional Premises Parking, the New Ambulatory Surgery Premises Parking, the New Additional Premises Parking, the Included Warehouse Corridor Premises Parking, the Included South Annex Premises Parking and the New South Annex Premises Parking, all to be located in the existing parking lot area directly west of the Building (subject to the remaining terms of this Article XXIII) (collectively referred to as "New On-Site Parking" and such approvals to be known as the "Parking Lot Approvals"). Tenant shall reasonably cooperate with Landlord's efforts to obtain the Parking Lot Approvals including, without limitation, endeavoring in good faith to provide to Landlord all information and documentation required by Landlord in connection with obtaining the Parking Lot Approvals by March 20, 2005, but no later than June 30, 2005. If Landlord obtains the Parking Lot Approvals, Landlord will construct the New On-Site Parking (the "On-Site Parking Work"). The cost to construct any parking spaces required to satisfy the Included Ambulatory Surgery Premises Parking, Included Warehouse Premises Parking, Included Additional Premises Parking, the Included Warehouse Corridor Premises Parking, Included South Annex Premises Parking and the New South Annex Premises Parking shall be paid by Landlord. The cost to construct the New Ambulatory Surgery Premises Parking and the New Additional Premises Parking shall be Additional Rent hereunder and shall be paid by Tenant to Landlord pursuant to the terms of Section 23.03.

23.03. Landlord shall provide Tenant with complete architectural plans, drawings and specifications and cost estimates for the On-Site Parking Work (the "Plans") within one hundred and eighty (180) days from the date the Parking Lot Approvals are obtained (which Plans shall be prepared by architects and engineers validly and currently licensed by New York State, who may be employees of Landlord). Tenant shall have thirty (30) days after receiving the Plans within which to approve the Plans in writing, such approval not to be unreasonably withheld, conditioned or delayed. If Tenant does not approve or disapprove the Plans within said thirty (30) day period, the Plans shall be deemed approved. In the event that Tenant disapproves all or any portion of the Plans, Tenant shall notify Landlord of the grounds for such disapproval with reasonable specificity. Tenant shall approve or disapprove any resubmission of the Plans within fifteen (15) days following resubmission to Tenant. Landlord shall put the On-Site Parking Work out to open bid to at least three (3) qualified contractors within forty-five (45) days from the date Tenant approves the Plans (the "Bid Request Date"). Landlord shall use commercially reasonable efforts to complete the bid process within forty-five (45) days following the Bid Request Date. Landlord shall provide written notification to Tenant of all of the bids together with copies thereof, in a form that lists the costs and quantities of all items relating to the On-Site Parking Work (i.e., the unit prices therefore and the number of units required). Tenant shall have fifteen (15) days after receiving notice of the bids within which to approve the amount of the lowest bid. If Tenant does not approve or disapprove such bid in writing within said fifteen (15) day period, the lowest bid shall be deemed approved. Within fifteen (15) days after such approval, Landlord shall enter into a contract with the low bidder (unless some reason for disqualification has occurred). If Tenant disapproves the low bid in writing within said fifteen (15) day period, Landlord and Tenant shall work together to reduce the cost with, if requested by either Landlord or Tenant, the work being re-bid in the manner set forth above. Upon approval of the bid by both parties, Landlord shall submit a budget for the costs associated with the On-Site Parking Work with respect to which (i) Landlord shall be

obligated to pay the portion of the cost (determined on a pro rata basis) related to the construction necessary to satisfy the Included Ambulatory Surgery Premises Parking, Included Warehouse Premises Parking, Included Additional Premises Parking, the Included Warehouse Corridor Premises Parking, Included South Annex Premises Parking and the New South Annex Premises Parking (the "Landlord Costs") and (ii) Tenant shall be obligated to pay the sum of (y) the portion of the cost (determined on a pro rata basis) of the work related to the construction of the New Ambulatory Surgery Premises Parking and the New Additional Premises Parking (including, without limitation, the cost of renovating the surface lot) and (z) a supervision fee equal to the Parking Supervision Fee (collectively, the "Tenant Costs"). The "Parking Supervision Fee" shall mean three percent (3%) of the Tenant Costs. The budget shall include (i) the bid costs, (ii) the cost to prepare the Plans, and (iii) the site development costs other than the bid including, among other items, the costs for surveying, engineering, soils testing, compaction density testing and paving core testing (collectively, the "Parking Development Costs"), but shall not include any cost for the use of the Land on which the New On-Site Parking is to be located. In the event of a need for a change order to the bid, Landlord and Tenant agree to review and reasonably approve same, and that amount shall be incorporated herein as if set forth herein. The On-Site Parking Work shall be performed in conformance with all applicable Requirements. Landlord shall commence the On-Site Parking Work as soon as reasonably practicable, given good construction practice following the date the bid has been approved by both parties (the "Bid Approval Date"). Landlord shall use commercially reasonable efforts to complete the On-Site Parking Work within twenty-four (24) months following the Bid Approval Date, as such deadline shall be extended by the number of days resulting from Unavoidable Delays and other delays by causes beyond Landlord's reasonable control. Prior to commencing the On-Site Parking Work, Tenant shall pay Landlord as Additional Rent the entire amount of the Tenant Costs, which cost shall be based upon the approved Parking Development Costs. Within sixty (60) days following completion of the On-Site Parking Work, Landlord shall submit to Tenant a statement setting forth the final actual Tenant Costs accompanied by a reasonably detailed computation of such costs. If such statement shall show that the sums paid by Tenant on account of the Tenant Costs exceeded the actual cost of the Tenant Costs, Landlord shall within thirty (30) days, at Landlord's election, either refund to Tenant the amount of such excess or credit the amount of such excess against subsequent installments of Base Rent under this Lease, and if such statement shall show that the sums so paid by Tenant were less than the actual Tenant Costs, Tenant shall pay the amount of such deficiency within thirty (30) days after demand. Notwithstanding the foregoing, Tenant shall have the option, in lieu of paying the Tenant Costs to Landlord prior to Landlord's commencing the On-Site Parking Work, to amortize the Tenant Costs on a straight-line basis over the remainder of the Term excluding any Extension Periods, in equal monthly installments, using an interest factor equal to seven percent (7%).

23.04. If Landlord does not obtain the Parking Lot Approvals within three (3) years following the Commencement Date (the "Approval Cut-Off Date"), Tenant shall continue to have the exclusive right, on a reserved basis and at no cost to Tenant, to use the Tenant's Temporary Dedicated Parking Spaces hereinafter described. Tenant acknowledges that by Landlord making such portion of the existing parking available to Tenant, Landlord shall be required to construct additional parking for Landlord's other tenants in the Village of Lake Success or elsewhere (the "Off-Site Parking"). From and after the Approval Cut-Off Date, Landlord shall use diligent, good faith and continuous efforts to obtain all required governmental approvals to construct the Off-Site Parking (the "Off-Site Approvals"). The Tenant's Cost to

construct the Off-Site Parking shall be Additional Rent hereunder and shall be paid by Tenant to Landlord pursuant to the terms of Section 23.05, provided that such cost shall not exceed the lesser of (i) the amount to be incurred by Landlord to construct such Off-Site Parking spaces for other tenants in the Building only to the extent that such Off-Site Parking spaces are in excess of the Included Ambulatory Surgery Premises Parking, Included Warehouse Premises Parking and Included Additional Premises Parking and (ii) the amount to be incurred by Landlord to construct such Off-Site Parking for other tenants in the Building as are required by Requirements.

23.05. In the event that Landlord is required to construct the Off-Site Parking pursuant to Section 23.04 above, Landlord shall provide Tenant with complete architectural plans, drawings and specifications for the Off-Site Parking Work (the "Off-Site Plans") within one hundred and eighty (180) days from the date the Off-Site Approvals are obtained (which Off-Site Plans shall be prepared by architects and engineers validly and currently licensed by New York State, who may be employees of Landlord). Tenant shall have thirty (30) days after receiving the Off-Site Plans within which to approve the Off-Site Plans in writing, such approval not to be unreasonably withheld, conditioned or delayed. If Tenant does not approve or disapprove the Off-Site Plans within said thirty (30) day period, the Off-Site Plans shall be deemed approved. In the event that Tenant disapproves all or any portion of the Off-Site Plans, Tenant shall notify Landlord of the grounds for such disapproval with reasonable specificity. Tenant shall approve or disapprove any resubmission of the Off-Site Plans within fifteen (15) days following resubmission to Tenant. Landlord shall put the On-Site Parking Work out to open bid to at least three (3) qualified contractors within forty-five (45) days from the date Tenant approves the Off-Site Plans (the "Off-Site Bid Request Date"). Landlord shall use commercially reasonable efforts to complete the bid process within forty-five (45) days following the Off-Site Bid Request Date. Landlord shall provide written notification to Tenant of all of the bids together with copies thereof, in a form that lists the costs and quantities of all items relating to the Off-Site Parking Work (i.e., the unit prices therefore and the number of units required). Tenant shall have fifteen (15) days after receiving notice of the bids within which to approve the amount of the lowest bid. If Tenant does not approve or disapprove such bid in writing within said fifteen (15) day period, the lowest bid shall be deemed approved. Within fifteen (15) days after such approval, Landlord shall enter into a contract with the low bidder (unless some reason for disqualification has occurred). If Tenant disapproves the low bid in writing within said fifteen (15) day period, Landlord and Tenant shall work together to reduce the cost with, if requested by either Landlord or Tenant, the work being re-bid in the manner set forth above. Upon approval of the bid by both parties, Landlord shall submit a budget for the costs associated with the Off-Site Parking Work to be shared by the parties. The budget shall include (i) the bid costs, (ii) the cost to prepare the Off-Site Plans, and (iii) the site development costs other than the bid including, among other items, the costs for surveying, engineering, soils testing, compaction density testing and paving core testing (collectively, the "Off-Site Parking Development Costs"), but shall not include any cost for the use of the land on which the New On-Site Parking is to be located. In the event of a need for a change order to the bid, Landlord and Tenant agree to review and reasonably approve same, and that amount shall be incorporated herein as if set forth herein. The Off-Site Parking Work shall be performed in conformance with all applicable Requirements. Landlord shall commence the Off-Site Parking Work as soon as reasonably practicable, given good construction practice following the date the bid has been approved by both parties (the "Off-Site Bid Approval Date"). Landlord shall use commercially

reasonable efforts to complete the Off-Site Parking Work within twenty-four (24) months following the Off-Site Bid Approval Date, as such deadline shall be extended by the number of days resulting from Unavoidable Delays and other delays by causes beyond Landlord's reasonable control. Prior to commencing the Off-Site Parking Work, Tenant shall pay Landlord as Additional Rent the Tenant's Cost (subject to the limitation set forth in Section 23.04). Within sixty (60) days following completion of the Off-Site Parking Work, Landlord shall submit to Tenant a statement setting forth the final actual costs of the Off-Site Parking Work accompanied by a reasonably detailed computation of such costs. If such statement shall show that the sums paid by Tenant on account of the Off-Site Parking Work exceeded the actual cost of the Off-Site Parking Work, Landlord shall within thirty (30) days, at Landlord's election, either refund to Tenant the amount of such excess or credit the amount of such excess against subsequent installments of Base Rent under this Lease, and if such statement shall show that the sums so paid by Tenant were less than the actual cost of the Off-Site Parking Work, Tenant shall pay the amount of such deficiency within thirty (30) days after demand. Notwithstanding the foregoing, Tenant shall have the option, in lieu of paying the costs of the Off-Site Parking Work to Landlord prior to Landlord's commencing the Off-Site Parking Work, to amortize such costs on a straight-line basis over the remainder of the Term excluding any Extension Periods, in equal monthly installments, using an interest factor equal to seven percent (7%).

23.06. The parties agree that pending the completion of the On-Site Parking Work and the delivery to Tenant of the New On-Site Parking (or such lesser number of parking spaces if Landlord is unable to obtain the Parking Lot Approvals within three (3) years following the Commencement Date, in accordance with Section 23.04 above) (the "Tenant's Permanent Dedicated Parking Spaces"), Landlord will provide Tenant with 2,440 parking spaces at the Building in locations designated in Exhibit L annexed hereto, which will be dedicated for Tenant's exclusive use and marked as reserved during the period that Tenant's Permanent Dedicated Parking Spaces have not yet been completed (such temporary spaces to be referred to as "Tenant's Temporary Dedicated Parking Spaces"). Tenant acknowledges that in the event that any Governmental Authority (including, without limitation, any local municipality) requires from time to time that the Tenant's Temporary Dedicated Parking Spaces be relocated to other areas on the Property, Landlord shall have the right to relocate the Tenant's Temporary Dedicated Parking Spaces at Landlord's sole cost and expense and Landlord shall give Tenant reasonable prior written notice as to such intended relocation along with the effective date of such relocation and a description as to the location of the relocated parking spaces, provided that in no event shall Tenant have less than 2,440 parking spaces constituting Tenant's Temporary Dedicated Parking Spaces. Exhibit L depicts the specific parking spaces allocable to the various portions of the Demised Premises (each such portion of the Demised Premises to which such parking spaces are allocated being referred to as a "Premises Block"). Landlord shall make the applicable portion of Tenant's Temporary Dedicated Parking Spaces available to Tenant on the Applicable Parking Availability Date with respect to a particular Premises Block. The "Applicable Parking Availability Date" shall be the rent commencement date with respect to such Premises Block (including a pro-rated holdback of parking spaces for the delayed rent commencement date for the Research Premises). Notwithstanding the foregoing, Landlord may delay the delivery to Tenant of up to 667 parking spaces (which are the current land banked spaces, the "Land Banked Spaces") until Tenant has given Landlord a notice stating that Tenant has obtained a building permit for an applicable Premises Block (which shall include a copy of such permit) and has actually commenced Tenant's Initial Improvements in such Premises

Block, at which time Landlord shall use commercially reasonable efforts as promptly as is reasonably practicable to make such number of Land Banked Spaces as are allocable to such Premises Block (as shown on Exhibit L) available to Tenant. If the Tenant's Permanent Dedicated Parking Spaces (or the Tenant's Temporary Dedicated Parking Spaces after a permitted relocation) are not all located in the western parking lot of the Building, then Landlord shall be obligated to provide a valet or shuttle service from such other relocated areas to the western entrance to the Demised Premises at Landlord's cost and expense until such time as such parking spaces not in the western parking lot can be relocated to the western parking lot, if ever.

23.07. Tenant acknowledges that Landlord's obligations under this Article XXIII are subject to the approval of Landlord's current Mortgagee. Tenant shall provide any reasonable information required by any Mortgagee in connection with such approval and Tenant shall cooperate with Landlord and any Mortgagee to obtain any such approval.

23.08. If, as a result of the transaction contemplated by the Purchase and Sale Agreement, the total number of parking spaces allocated to Tenant pursuant to this Lease decreases, Landlord shall as promptly as reasonably practicable replace such parking spaces by providing an equivalent number of parking spaces (the "Replacement Parking") in a comparably convenient location on the Land (or in a parking structure constructed by Landlord), all at Landlord's sole cost and expense. Landlord agrees to use commercially reasonable efforts to locate such Replacement Parking at a distance from the main entrance to the Demised Premises on the western side of the Building that is not materially further than the distance between the spaces replaced by such Replacement Parking and such entrance to the Demised Premises. In lieu of providing such Replacement Parking as described above, Landlord shall have the right to satisfy its obligation to provide Replacement Parking by agreeing to pay its pro-rata costs of constructing such additional spaces in the Parking (as defined in the Purchase and Sale Agreement) at the Property. In the event that Landlord elects to satisfy the Replacement Parking requirement by agreeing to pay its pro-rata costs of constructing such additional spaces in the Parking (as defined in the Purchase and Sale Agreement) at the Property, Tenant shall cooperate in good faith with Landlord to accomplish the same including, without limitation, providing Landlord with regular updates of the design and construction schedule and construction budget for the Improvements (as defined in the Purchase and Sale Agreement).

ARTICLE XXXIX

Medical and Toxic Waste

39.01. Tenant acknowledges that Tenant shall be solely responsible for the proper and legal disposal of all medical, toxic and so-called "red bag" waste, as same may be defined from time to time, by all regulatory authorities having jurisdiction. Except with respect to the negligent and/or willful acts or omissions of Landlord or its agents, employees and invitees, Landlord shall have no liability to any person or entity in this regard. Tenant shall comply with all regulations issued by the federal government, New York State, the County of Nassau, or any other agency, municipality or regulatory authority having jurisdiction with respect to the generation, storage and disposal of such waste. In addition, Tenant shall be required, at its own cost and expense to contract with a licensed medical and toxic waste disposal company for the disposal of all syringes, needles and other medical, toxic and red bag waste. Failure to properly dispose of all medical, toxic and red bag waste, shall be a material default under this Lease. Tenant shall, and does hereby, indemnify Landlord and holds Landlord harmless from any

damage, loss, liability, claims, actions or proceedings, including, but not limited to, attorneys' fees and any fines or penalties, arising out of or relating to Tenant's failure to perform any obligation under this Article XXXIX (except with respect to the negligent and/or willful acts or omissions of Landlord or its agents, employees and invitees). This Article XXXIX shall survive the termination or expiration of this Lease.

ARTICLE XLI

Building and Parking Lot Alterations and Management

41.01. Landlord shall have the right, at any time without the same constituting an eviction and without incurring liability to Tenant therefor, to change the arrangement and/or location of public entrances, passageways, doors, doorways, corridors, elevators, stairs, toilets, parking areas (other than Tenant's Permanent Dedicated Parking Spaces) or other public parts of the Building or adjoining land area, and to change the name, number or designation by which the Building may be known, provided that so long as the Tenant-named-herein satisfies the Minimum Square Footage Requirement, Landlord shall not name the Building for any hospital, health care system or health insurer. There shall be no allowance to Tenant for diminution of rental value and no liability on the part of Landlord by reason of inconvenience, annoyance or injury to business arising from Landlord or other tenants making any repairs in the Building or any such alterations, additions and improvements. Furthermore, Tenant shall not have any claim against Landlord or by reason of Landlord's imposition of such controls of the manner of access to the Building by Tenant's visitors, as Landlord may deem reasonably necessary for the security of the Building and its occupants, provided size is not reduced. Landlord shall use all commercially reasonable efforts to minimize disruption to, or interference with, Tenant's use and enjoyment of the Demised Premises and the Building.

41.02. Tenant shall have the non-exclusive right to use the elevators in the Building that are designated by the Landlord as for common use by the tenants of the Building, from time to time.

ARTICLE XLII

Exclusivity

42.01. Provided that the Tenant-named-herein together with its Affiliates meets the Minimum Square Footage Requirement, then Landlord agrees that no other space in the Building or on the Land will be leased to (i) a hospital and/or health care system (other than a member of the North Shore-Long Island Jewish Health System) or for any of the uses listed on Exhibit M (collectively, the "Primary Exclusive Uses") or (ii) subject to Section 42.02 below, any other Person providing medical services, any non-for profit scientific or medical research facility or institution, or any regulatory or governmental agency related to health care services (collectively, the "Non-Primary Exclusive Uses"). In the event that any other tenant in the Building violates the exclusivity given to Tenant herein, Landlord shall not be liable, accountable or in any manner responsible for any damages sustained or resulting therefrom and shall not be obligated to enforce said exclusivity or seek an injunction or take any other action in connection therewith but rather Landlord hereby assigns all of its rights, remedies and damages including legal fees to Tenant herein without the need for execution of any further documentation. Notwithstanding the above, if Tenant notifies Landlord of the alleged violation by any such

tenant, Landlord shall be obligated to notify the violating tenant of the alleged violation. If, in Landlord's sole opinion, the violating tenant is violating the provisions of this Lease, Landlord may, but is under no obligation to do so, terminate the lease of such tenant and commence whatever action Landlord deems desirable. If Landlord does not take any further action other than the above notification, Tenant may do so under the assignment provision granted herein, provided that in no event may Tenant bring an action to terminate the violating lease or evict the violating tenant thereunder. Tenant shall indemnify and hold the Landlord harmless from any and all actions, claims, liabilities and damages including reasonable attorneys' fees, incurred, resulting from or in connection with Tenant's enforcement of the provisions of this paragraph. Tenant acknowledges and agrees that the exclusivity rights granted to Tenant under this paragraph do not limit any rights contained in other leases in effect as of the date hereof for current tenants (or their subtenants or licensees) in the Building; provided that if any current tenants are using their premises for Primary Exclusive Uses, then Landlord shall not agree to expand the premises of such tenants unless such tenants have such expansion rights as of the date hereof (provided that in no event shall LA Fitness (or its subtenants or licensees) be subject to any restrictions on its ability to expand its premises for any use currently permitted under its lease). Tenant also agrees that Bio Partners and iPro (or their subtenants or licensees) may occupy space at the Building to conduct their ordinary business without Landlord being deemed in violation of this Section 42.01.

ARTICLE XLIV

Right of First Offer

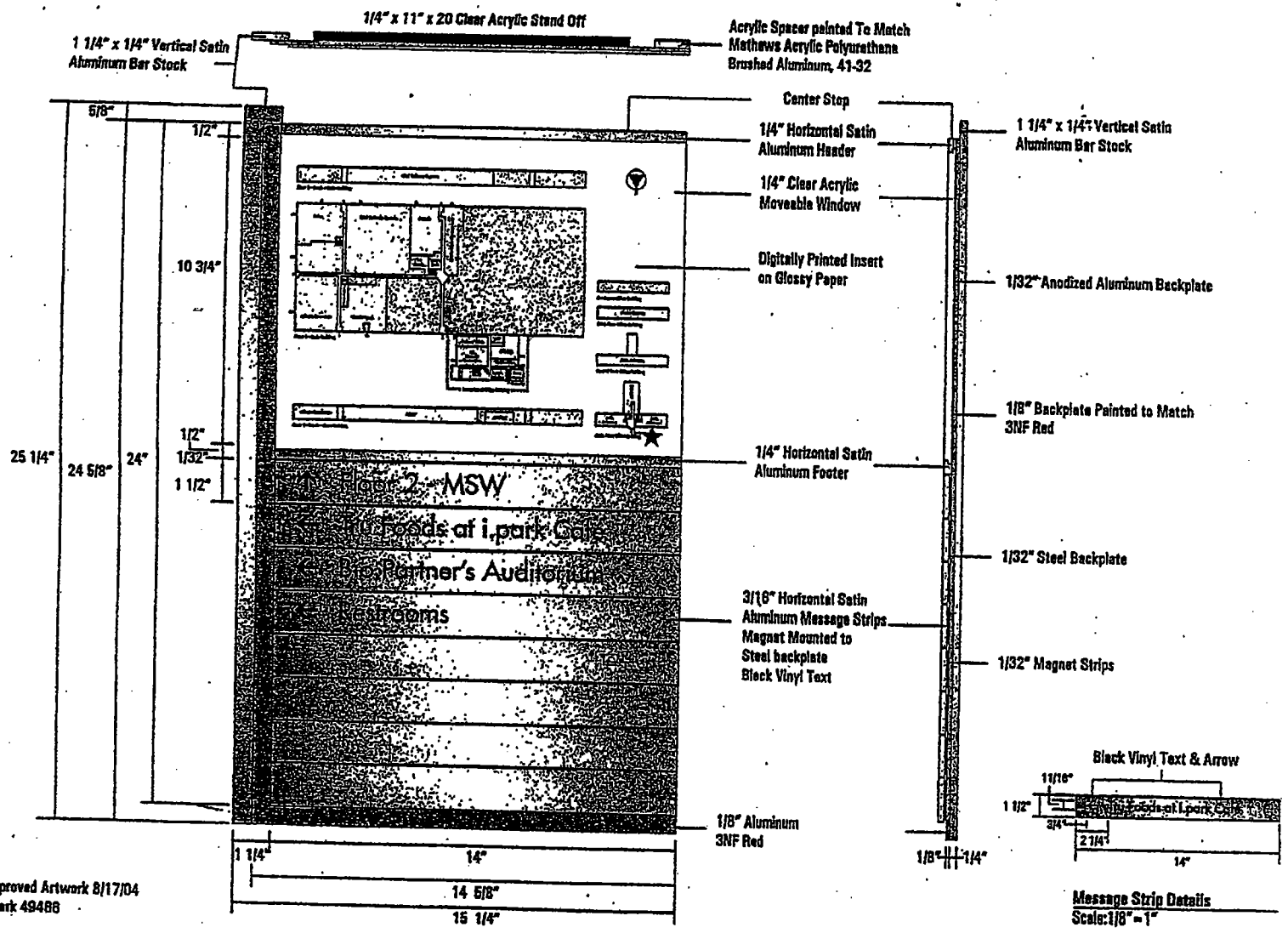
44.01. Provided Tenant is not then in default under the terms and conditions of this Lease beyond the expiration of any applicable notice and grace period, if at any time during the term, Landlord shall desire to sell the Property or the portion thereof generally constituting the Demised Premises (including the condominium unit containing the Demised Premises (the "Demised Premises Unit") after the Statutory Condominium Declaration Date, if applicable) (or if Landlord receives an offer for same that Landlord desires to accept from an unrelated third party) (such applicable space, the "Potential Offering Space"), then before offering to sell the Potential Offering Space to such third party (or accepting any such unsolicited offer), Landlord shall deliver to Tenant a notice (the "ROFO Offer") setting forth the purchase price and other material terms and conditions upon which Landlord would be willing to sell the Potential Offering Space (or, if applicable, enclosing a copy of the third party offer). Tenant shall, by written notice to be delivered to Landlord before 5:00 p.m. New York time on the twentieth (20^{th}) Business Day following Tenant's receipt of the ROFO Offer (such 20-Business Day period, the "ROFO Offer Response Period"), TIME BEING OF THE ESSENCE WITH RESPECT TO SUCH TIME AND DATE, either (i) accept the ROFO Offer or (ii) decline the ROFO Offer. If Tenant fails to give a notice by the expiration of the ROFO Offer Response Period, it will be deemed to have declined the ROFO Offer. If Tenant accepts the ROFO Offer, then the parties shall enter into a Purchase and Sale Agreement reasonably acceptable to both Tenant and Landlord to acquire all the Potential Offering Space on the terms and conditions stated in the ROFO Offer within forty-five (45) days following Tenant's acceptance of the ROFO Offer. If Tenant (x) fails to accept the ROFO Offer during the ROFO Offer Response Period (or is deemed to have declined the ROFO Offer) or (y) fails to enter into a Purchase and Sale Agreement within forty-five (45) days following Tenant's acceptance of the ROFO Offer,

then, except as expressly provided below, Tenant's right of first offer shall terminate, Tenant's rights under this Article XLIV shall no longer be effective and Landlord shall have the right to sell the Potential Offering Space to any person or entity on substantially the same or better terms and conditions set forth in the ROFO Offer (provided, however, that the purchase price may be up to five percent (5%) less than the proposed purchase price set forth in the ROFO Offer) without being subject to any right of Tenant, and Tenant shall have no further rights under the Article XLIV. If Tenant fails to accept the ROFO Offer during the ROFO Offer Response Period and thereafter Landlord fails to consummate a sale consistent with the preceding sentence within one hundred and twenty (120) days, or Landlord thereafter desires to accept an offer to sell the Potential Offering Space from any person or entity on terms that are not substantially in accordance with the terms set forth in the ROFO Offer (e.g. for a purchase price that is less than ninety five percent (95%) of the purchase price set forth in the ROFO Offer), Landlord shall be required to deliver another ROFO Offer to Tenant in accordance with the provisions of this Section 44.01.

EXHIBIT H

EXHIBIT H

INTERNAL SIGNAGE



Approved Artwork 8/17/04
I-Park 49486

SIGN TYPE IPARK-C1
Map with Directional Info

CLIENT
I-Park

SIZE
Refer To Art

MATERIAL
Refer To Art

FINISH
Refer To Art

GRAPHICS
Refer To Art

TYPESTYLE
Future Medium

MOUNTING
1/32" Foamtape w/Silicone

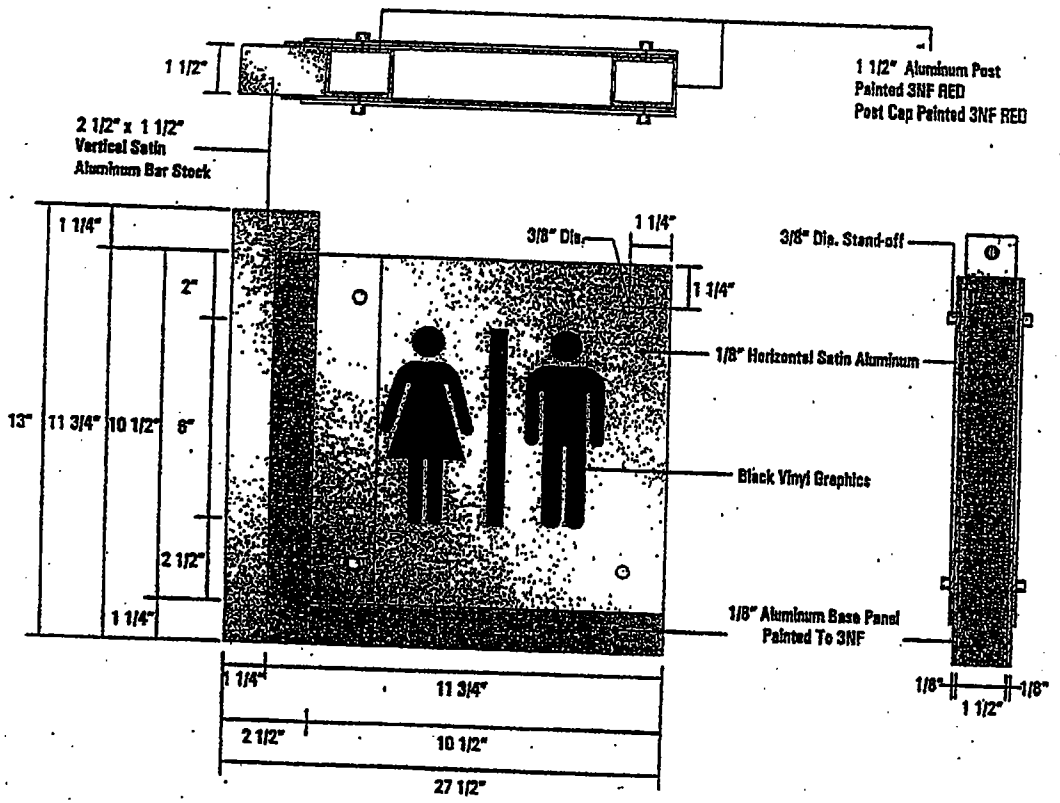
SCALE
1/4" = 1"

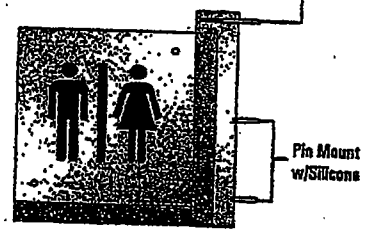
PRECISION ENGRAVING
243 DIXON AVE. AMITYVILLE, NY 11701
PHONE (631) 842-8188 FAX (631) 842-8864

☐ AD ☐ ED ☐ FAB ☐ MK ☐ AF

Approved By/Date

VERSION NUMBER:	1.27	
File: IPARK-C1.cdr		
Drawn by	JAB	6/25/04
Revision by	JCP	6/31/04
Revision by	TG	8/25/04





Mounting Details
Scale: NTS

*Bottom of Sign
to Align with Top of Door Frame

Approved Artwork 6/12/04
I-Park 49486

SIGN TYPE IPARK-E1
Projecting Restroom ID

CLIENT
I-Park

SIZE
Refer To Art

MATERIAL
Refer To Art

FINISH
Refer To Art

GRAPHICS
Black Vinyl

TYPESTYLE
N/A

MOUNTING
Refer To Art

SCALE
1/4" = 1"

PRECISION ENGRAVING
243 DIXON AVE. AMITYVILLE, NY 11701
PHONE (631) 842-6010 FAX (631) 842-6014

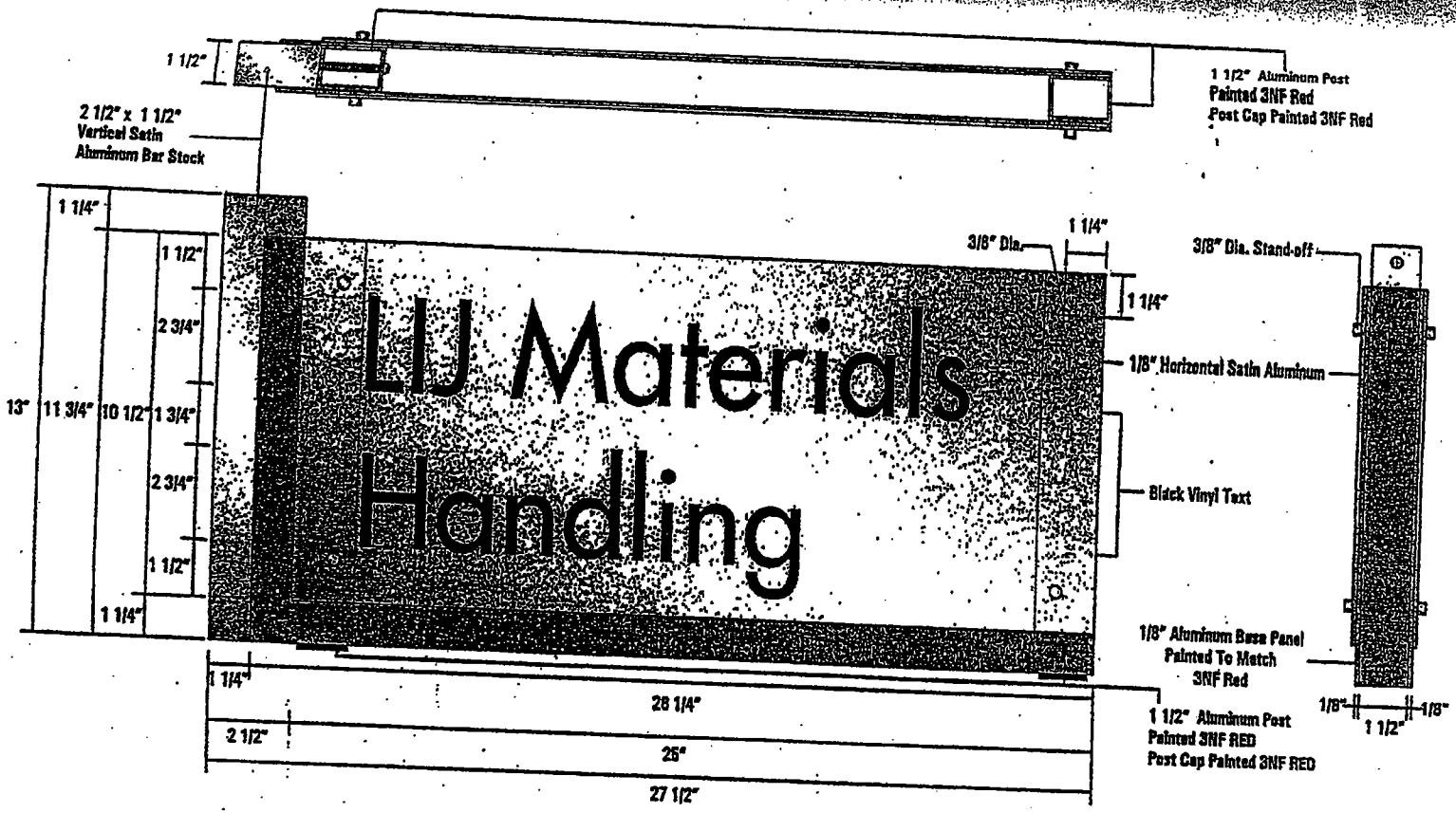
☐ AD ☐ ED ☐ FAB ☐ MK ☐ AF

Approved By/Date

VERSION NUMBER:

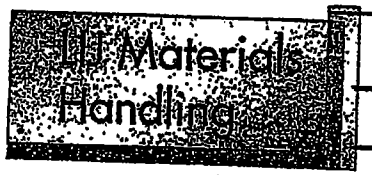
File: I-Park\Signs\types\IPARK-E1.cdr

Drawn by	JAB	5/25/04
Revision by	JCP	6/31/04
Revision by	TG	6/17/04



Mounting Details
Scale: NTS

*Bottom of Sign
to Align with Top of Door Frame



Approved Artwork 11/10/04
I-Park #51235

SIGN TYPE IPARK-01
Projecting Tenant Suite ID

CLIENT
I-Park

SIZE
Refer To Art

MATERIAL
Refer To Art

FINISH
Refer To Art

GRAPHICS
Black Vinyl

TYPESTYLE
Futura

MOUNTING
Refer To Art

SCALE
1/4"=1"

PRECISION ENGRAVING
243 DIXON AVE. AMITYVILLE, NY 11701
PHONE (631) 842-6700 FAX (631) 842-8884

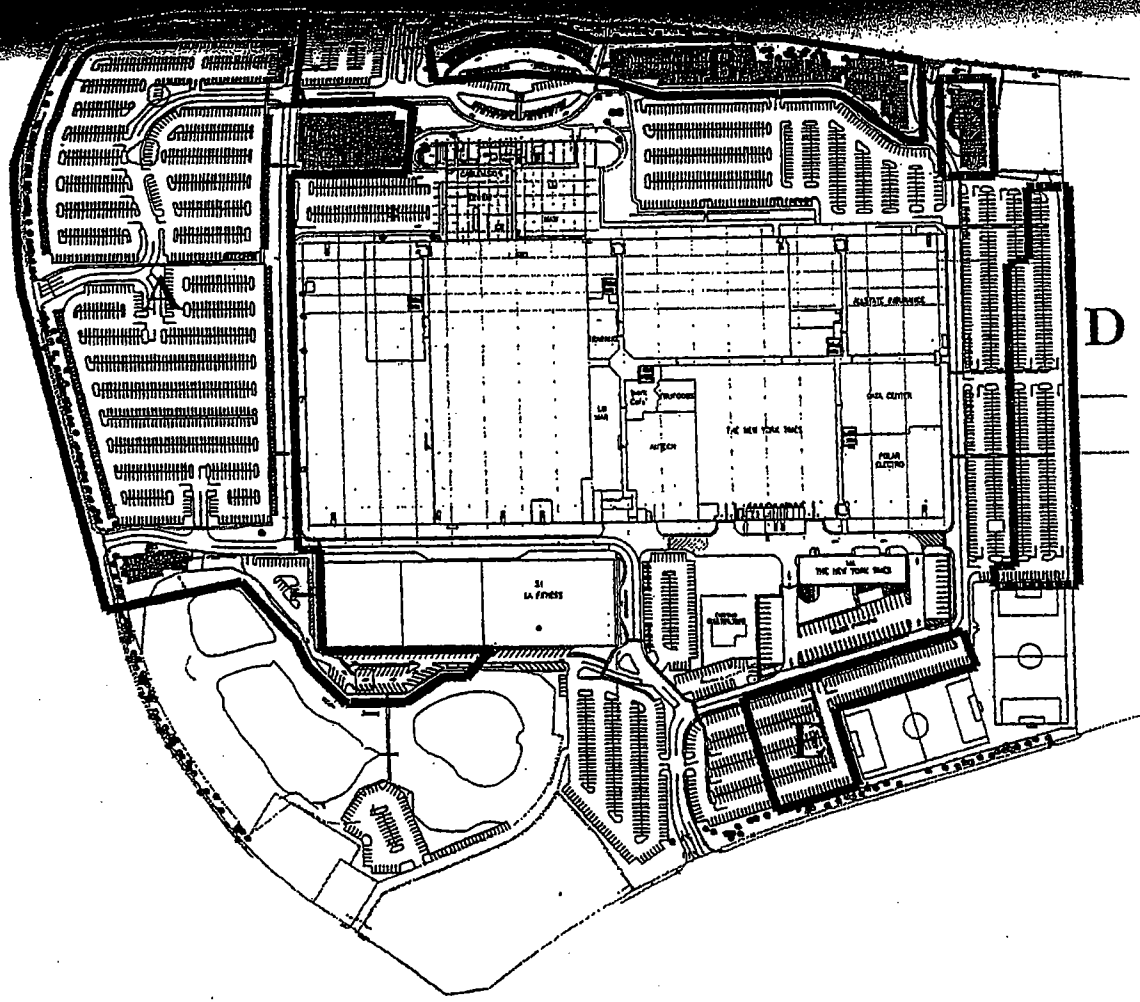
☐ AD ☐ ED ☐ FAB ☐ MK ☐ AF

Approved By/Date		
VERSION NUMBER:		
File:		
Drawn by	JAB	5/25/04
Revision by	JCP	6/31/04
Revision by	TG	8/17/04

EXHIBIT L

EXHIBIT L

TENANT'S TEMPORARY PARKING



PARKING LEGEND			
AREA	EXISTING SPACES	LAND BANK SPACES	TOTAL
AREA 'A'	1316 SPACES	394	1709
AREA 'B'	0 SPACES	223	223
AREA 'C'	0 SPACES	50	50
AREA 'D'	316 SPACES	0	316
AREA 'E'	136 SPACES	0	136

NS-LU PARKING REQUIREMENTS		
SPACE	REQUIRMENT	SPACE COUNT
UNIT #1	7/1000SF	903 SPACES
UNIT #1 (MEZZ)	7/1000SF	318 SPACES
UNIT #2	4/1000SF	616 SPACES
AM SURG.	1.6/1000SF	109 SPACES
SOUTH ANNEX	2/1000SF	34 SPACES
20,000 SF WH CORRIDOR	4/1000SF	80 SPACES
AM SURG EXISTING	6/1000SF	325 SPACES
LIJ WH EXISTING	2/1000 SF	55 SPACES
TOTAL (INCL. EXISTING)		2440 SPACES

i.park

NS-LIJ PARKING REQUIRMENTS

Scale: NTS

EXHIBIT

|T|P|G|

THE PHILLIPS GROUP

Exhibit M Exhibit N Exhibit O

EXHIBIT M

Exhibit M

Exclusive Uses

i) Surgical use.

ii) Oncological medicine.

iii) Diagnostic services (specifically including diagnostic lab services relating to fluids and tissue, and imaging) that are in competition with Tenant's business (whether or not such business is conducted in the Demised Premises); provided that if at the time of a proposed new lease, the proposed use thereunder is not in competition with Tenant's business then being conducted in the Demised Premises or with any Contemplated Business (hereinafter defined), then neither Landlord nor the tenant under such new lease shall be deemed to be in violation of Tenant's Primary Exclusive Uses during the term of such other lease and all extensions thereof, even if subsequent to such new lease being executed Tenant starts to provide such services in the Demised Premises or designates such services as a Contemplated Business).

iv) Rehabilitation services that are in competition with Tenant's business (whether or not such business is conducted in the Demised Premises); provided that if at the time of a proposed new lease, the proposed use thereunder is not in competition with Tenant's business then being conducted in the Demised Premises or with any Contemplated Business, then neither Landlord nor the tenant under such new lease shall be deemed to be in violation of Tenant's Primary Exclusive Uses during the term of such other lease and all extensions thereof, even if subsequent to such new lease being executed Tenant starts to provide such services in the Demised Premises or designates such services as a Contemplated Business).

v) Medical research unless the tenant proposing to provide such services agrees to post a sign on or in its demised premises conspicuously stating that such tenant is not affiliated with North Shore - Long Island Jewish Health System.

vi) Health education unless the tenant proposing to provide such services agrees to post a sign on or in its demised premises conspicuously stating that such tenant is not affiliated with North Shore - Long Island Jewish Health System.

vii) Pharmacies providing infusion therapy in the Building.

viii) Out-patient medical services that are in competition with Tenant's business (whether or not such business is conducted in the Demised Premises); provided that if Landlord desires to use or permit the use of any portion of the Land for such purposes, Landlord may request that Tenant consent to Landlord using of permitting such use, such consent not to be unreasonably withheld, conditioned or delayed, and Tenant shall respond to Landlord as to whether Tenant is granting or denying such consent within ten (10) Business Days. Tenant's failure to respond within such ten (10) Business Days shall be deemed Tenant's consent to Landlord's request. In no event shall Tenant be deemed unreasonable in granting its consent under this subsection (viii) if the use being proposed by the Landlord is a use that is in competition with Tenant's business (whether or not such business is conducted in the Demised Premises).

On January 1 of each year, Tenant may give Landlord a notice listing those medical hospital businesses or uses, if any, that Tenant contemplates commencing in the Demised Premises within two (2) years of such notice (the "Contemplated Business Notice"), and each such business or use shall be deemed a "Contemplated Business" hereunder. Notwithstanding the foregoing, a business or use listed on a Contemplated Business Notice shall only constitute a Contemplated Business for the purposes of this Exhibit M if, at the time Tenant gives the applicable Contemplated Business Notice, Tenant has taken affirmative steps in good-faith in furtherance of the planning for such business or use at the Demised Premises (which good faith steps may include preparing budgets or space plans in respect of such business or use). If Tenant does not commence conducting a Contemplated Business in the Demised Premises within two (2) years after having given the Contemplated Business Notice containing such Contemplated Business (the "Applicable Exclusivity Period" with respect to such applicable Contemplated Business), then such Contemplated Business shall not be deemed a Contemplated Business (or a Primary Exclusive Use or Non-Primary Exclusive Use (if such Non-Primary Exclusive Use was listed in such Contemplated Business Notice)) for a period of two (2) years following such Applicable Exclusivity Period (such subsequent two (2) year period to be known as the "Applicable Non-Exclusivity Period" with respect to such applicable Contemplated Business), and Landlord (and its tenants) shall have the right during the Applicable Non-Exclusivity Period to enter into leases (for any term) permitting any of the businesses listed in the applicable Contemplated Business Notice for the entire terms of such leases (and any extension terms thereof); provided that after such Applicable Non-Exclusivity Period has expired, Tenant shall again have the right to include such Contemplated Business (i.e., that was permitted during the preceding Applicable Non-Exclusivity Period) in a Contemplated Business Notice; provided that neither Landlord nor the tenant under any lease shall be deemed to be in violation of Tenant's Primary Exclusive Uses during the term of any lease (and all extensions thereof) with respect to a Contemplated Business that was entered into during an Applicable Non-Exclusivity Period, even if subsequent to such new lease being executed Tenant designated such business as a Contemplated Business.

Each of the above exclusive uses (including any Contemplated Business) shall relate only to human care and shall not be deemed to prevent other tenants in the building from providing any services (including the above services) to or with animals. Further, nothing contained in this Exhibit M shall prevent Landlord (or any of its tenants) from using any space at the Building for general office, dental services and/or service relating to artificial limbs and/or hair transplants.

STATE OF NEW YORK
COUNTY OF NASSAU
COUNTY CLERK'S OFFICE } SS:

I, **MAUREEN O'CONNELL,** County Clerk of the County of Nassau and the Supreme and County Courts, Courts of Record thereof,

DO HEREBY CERTIFY, that I have compared the annexed with the original.

Declaration, Deed Liber 12164 pg 515-633
Lot 4 #1 1111 Marcus Ave Condo

FILED AND RECORDED in my office 8-28-06
and that the same is a true transcript thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of said County at Mineola, N.Y. this 28th day of August, 2006

Maureen O'Connell
County Clerk

CL-192. 2/96. Rev. 12/05

FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OF

1111 MARCUS AVENUE CONDOMINUM

PREMISES:
1111 MARCUS AVENUE
LAKE SUCCESS, NEW YORK 11042

The land affected by the within instrument
lies in Section 8, Block B-18
Lots 300H and 300L
County of Nassau and State of New York

Record and Return to:

Ganfer & Shore, LLP
360 Lexington Avenue
New York, New York 10017
Attn: Eric M. Wohl, Esq.

FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OF 1111 MARCUS AVENUE CONDOMINIUM

THIS FIRST AMENDMENT ("First Amendment") to the Declaration of Condominium of 1111 Marcus Avenue Condominium ("Condominium"), dated as of ~~March~~ SEPT 24, 2012, does hereby amend the Declaration of Condominium, dated June 16, 2006, and recorded on August 28, 2006, as Liber D 12164, Pages 515-633, in the Nassau County Clerk's Office (collectively, the "Declaration").

WHEREAS, the floor plan ("Existing Floor Plan") of the Condominium (attached to the Declaration in Schedule "C") incorrectly labeled a minor portion of Unit 1 as part of Unit 2 (a copy of the Existing Floor Plan denoting the inaccuracy is attached hereto as Exhibit A);

WHEREAS, the parties desire to correct the Existing Floor Plan so the same is otherwise consistent with the Declaration and recorded with the Nassau County Clerk's Office; and

WHEREAS, Pursuant to Article 10 of the Declaration, the Declaration may be amended with the written consent of (i) both the Unit 1 Owner and the Unit 2 Owner and (ii) the Permitted Mortgagee.

NOW THEREFORE, the Declaration and By-Laws shall be amended to include the following additional information.

1. All capitalized terms used herein which are not separately defined herein shall have the meanings given to those terms in the Declaration or the By-Laws of the Condominium.

2. Section 2.6 of the By-Laws is hereby amended by adding a new sub-section 2.6(a)(2)(x), which shall include the following language:

> "(x) The Board, on behalf of the Unit Owners, shall have the authority to execute, deliver, record, modify, enforce and otherwise deal with in any manner, any covenant, restriction or easement affecting the Property which the Board deems necessary or appropriate."

3. In order to correct the Existing Floor Plan to be otherwise consistent with the Declaration, the portion of the Existing Floor Plan incorrectly labeled as part of Unit 2 shall be labeled as part of Unit 1 ("Correct Floor Plan"). The Correct Floor Plan, which shall replace the Existing Floor Plan in Schedule "C" to the Declaration, is attached hereto as Exhibit B.

4. The Declaration, as amended and modified by this First Amendment, is incorporated herein by reference with the same force and effect as if set forth at length. Except as amended herein, all other terms and provisions of the Declaration are hereby ratified and confirmed and shall remain in full force and effect.

5. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed by its duly authorized representative as of the date first set forth above.

UNIT OWNER 1:

APOLLO LAKE SUCCESS PROPERTY, LLC,
a Delaware limited liability company

By:_____
Name:
Title:

UNIT OWNER 2:

1111 MARCUS AVENUE UNIT 2 OWNER, LLC,
a Delaware limited liability company

By:_____
Name:
Title:

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On the 24th day of ~~March~~ Sept. in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard Marks, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EMILY CONNER
Notary Public, State of New York
No. 01CO6026169
Qualified in New York County
Commission Expires June 7, 2015

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On the 24th day of ~~March~~ Sept, in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard Marks, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EMILY CONNER
Notary Public, State of New York
No. 01CO6026169
Qualified in New York County
Commission Expires June 7, 2015

ACCEPTED and AGREED to:

PERMITTED MORTGAGEE

By: R S Smith II
Name: Reggie Smith
Title: AVP
Wells Fargo Bank, N.A.

ACCEPTED and AGREED to:

PERMITTED MORTGAGEE

By:_____
Name:
Title:

STATE OF ~~NEW YORK~~ North Carolina)
) ss.:
COUNTY OF Mecklenburg)

On the 27 day of ~~March~~ Sept. in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared Reggie Smith, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

JANET GARNER
NOTARY PUBLIC
GASTON COUNTY, NC
My Commission Expires March 27, 2015

Janet Garner
Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On the ___ day of March, in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

ACCEPTED and AGREED to:

PERMITTED MORTGAGEE

By:_____
Name:
Title:

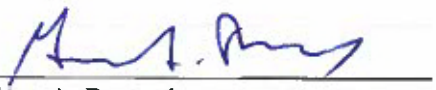
ACCEPTED and AGREED to:

PERMITTED MORTGAGEE

U.S. Bank National Association, as Successor Trustee for the Registered Holders of Deutsche Mortgage & Asset Receiving Corporation, Commercial Mortgage Pass-Through Certificates, Series CD 2006-CD3

By: Berkadia Commercial Mortgage LLC, a Delaware limited liability company

Its: Master Servicer

By: 
Name: Gary A. Routzahn
Authorized Representative

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On the ___ day of March, in the year 2012, before me, the undersigned, a Notary Public in and for said state, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
)ss
COUNTY OF MONTGOMERY)

On the 14th day of October 2012, before me, a Notary Public in and for the said Commonwealth, personally appeared Gary A. Routzahn, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as an Authorized Representative, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

In Witness Whereof, I have hereunto set my hand and official seal.

Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Margaret Powers, Notary Public
Horsham Twp., Montgomery County
My Commission Expires Oct. 6, 2013
Member, Pennsylvania Association of Notaries

EXHIBIT A

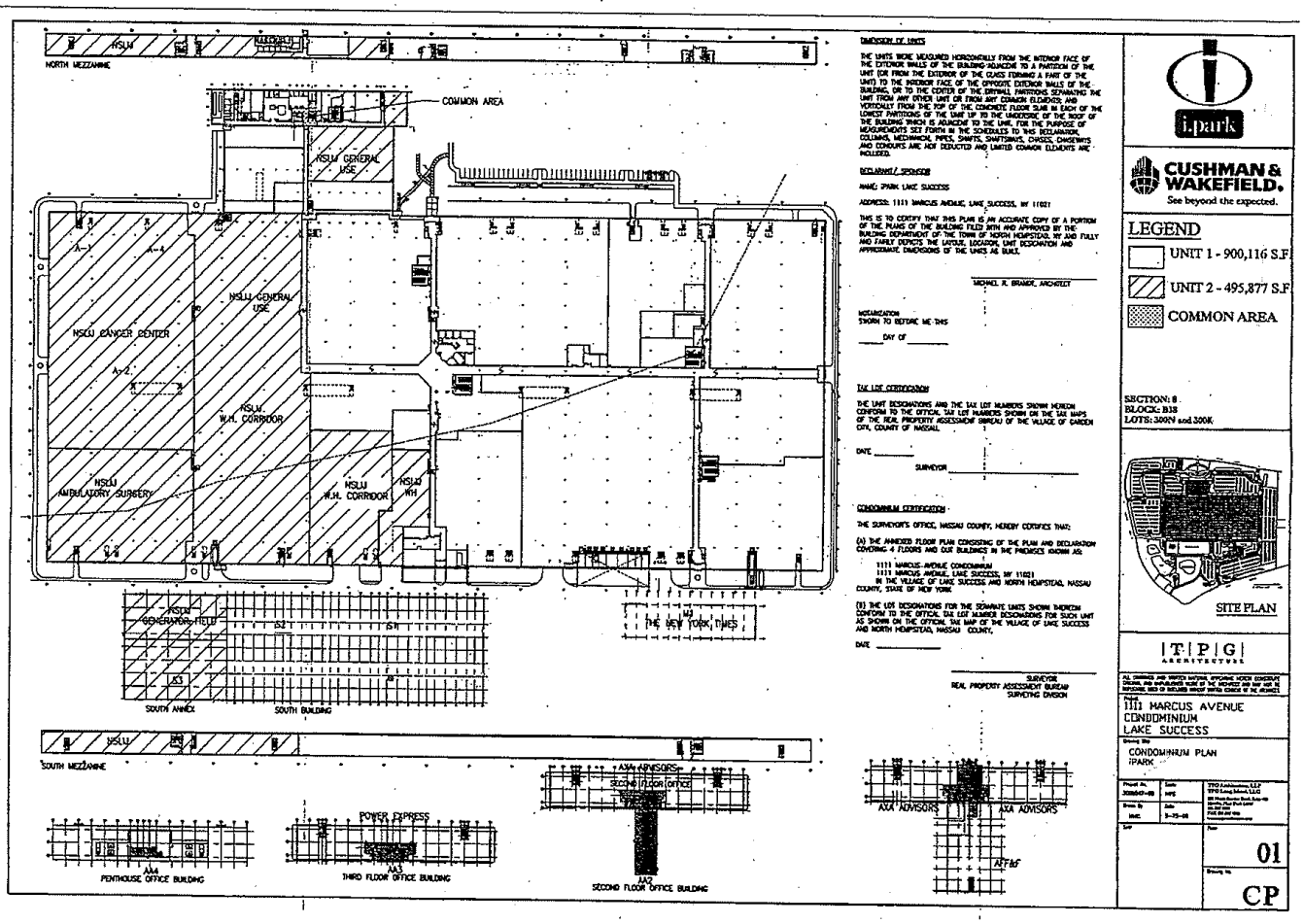
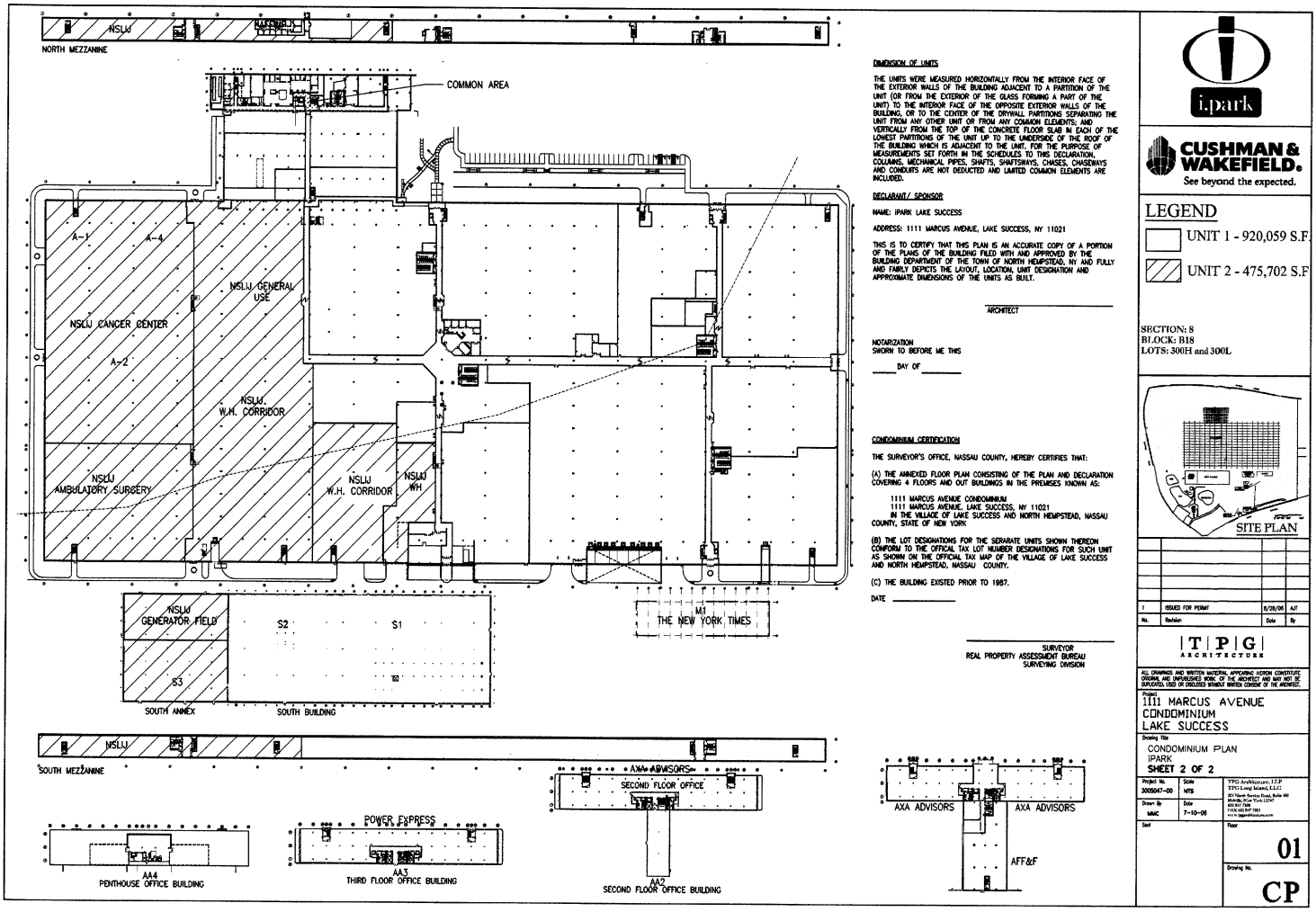

NORTH MEZZANINE
NSLIJ
MAKERBOT
COMMON AREA
NSLIJ GENERAL USE
NSLIJ CANCER CENTER
NSLIJ GENERAL USE
NSLIJ W.H. CORRIDOR
NSLIJ AMBULATORY SURGERY
NSLIJ W.H. CORRIDOR
NSLIJ WH
NSLIJ GENERATOR FIELD
THE NEW YORK TIMES
SOUTH ANNEX
SOUTH BUILDING
SOUTH MEZZANINE
AXA ADVISORS
SECOND FLOOR OFFICE
POWER EXPRESS
PENTHOUSE OFFICE BUILDING
THIRD FLOOR OFFICE BUILDING
SECOND FLOOR OFFICE BUILDING
AXA ADVISORS
AXA ADVISORS
DIMENSION OF UNITS
THE UNITS WERE MEASURED HORIZONTALLY FROM THE INTERIOR FACE OF THE EXTERIOR WALLS OF THE BUILDING ADJACENT TO A PARTITION OF THE UNIT (OR FROM THE EXTERIOR OF THE GLASS FORMING A PART OF THE UNIT) TO THE INTERIOR FACE OF THE OPPOSITE EXTERIOR WALLS OF THE BUILDING, OR TO THE CENTER OF THE DRYWALL PARTITIONS SEPARATING THE UNIT FROM ANY OTHER UNIT OR FROM ANY COMMON ELEMENTS; AND VERTICALLY FROM THE TOP OF THE CONCRETE FLOOR SLAB IN EACH OF THE LOWEST PARTITIONS OF THE UNIT UP TO THE UNDERSIDE OF THE ROOF OF THE BUILDING WHICH IS ADJACENT TO THE UNIT. FOR THE PURPOSE OF MEASUREMENTS SET FORTH IN THE SCHEDULES TO THIS DECLARATION, COLUMNS, MECHANICAL PIPES, SHAFTS, SHAFTWAYS, CHASES, DUCTWORKS AND CONDUITS ARE NOT DEDUCTED AND LIMITED COMMON ELEMENTS ARE INCLUDED.
DECLARANT / SPONSOR
NAME: IPARK LAKE SUCCESS
ADDRESS: 1111 MARCUS AVENUE, LAKE SUCCESS, NY 11021
THIS IS TO CERTIFY THAT THIS PLAN IS AN ACCURATE COPY OF A PORTION OF THE PLANS OF THE BUILDING FILED WITH AND APPROVED BY THE BUILDING DEPARTMENT OF THE TOWN OF NORTH HEMPSTEAD, NY AND FULLY AND FAIRLY DEPICTS THE LAYOUT, LOCATION, UNIT DESIGNATION AND APPROXIMATE DIMENSIONS OF THE UNITS AS BUILT.
MICHAEL R. BRAGER, ARCHITECT
NOTARIZATION
SWORN TO BEFORE ME THIS
DAY OF
TAX LOT CERTIFICATION
THE UNIT DESIGNATIONS AND THE TAX LOT NUMBERS SHOWN HEREON CONFORM TO THE OFFICIAL TAX LOT NUMBERS SHOWN ON THE TAX MAPS OF THE REAL PROPERTY ASSESSMENT BUREAU OF THE VILLAGE OF GARDEN CITY, COUNTY OF NASSAU.
DATE
SURVEYOR
CONDOMINIUM CERTIFICATION
THE SURVEYOR'S OFFICE, NASSAU COUNTY, HEREBY CERTIFIES THAT:
(A) THE ANNEXED FLOOR PLAN CONSISTING OF THE PLAN AND DECLARATION COVERING 4 FLOORS AND OUT BUILDINGS IN THE PREMISES KNOWN AS:
1111 MARCUS AVENUE CONDOMINIUM
1111 MARCUS AVENUE, LAKE SUCCESS, NY 11021
IN THE VILLAGE OF LAKE SUCCESS AND NORTH HEMPSTEAD, NASSAU COUNTY, STATE OF NEW YORK
(B) THE LOT DESIGNATIONS FOR THE SEPARATE UNITS SHOWN THEREON CONFORM TO THE OFFICIAL TAX LOT NUMBER DESIGNATIONS FOR SUCH UNIT AS SHOWN ON THE OFFICIAL TAX MAP OF THE VILLAGE OF LAKE SUCCESS AND NORTH HEMPSTEAD, NASSAU COUNTY.
DATE
SURVEYOR
REAL PROPERTY ASSESSMENT BUREAU
SURVEYING DIVISION
ipark
CUSHMAN & WAKEFIELD.
See beyond the expected.
LEGEND
UNIT 1 - 900,116 S.F.
UNIT 2 - 495,877 S.F.
COMMON AREA
SECTION: 8
BLOCK: 838
LOTS: 300N and 500K
SITE PLAN
TPG ARCHITECTURE
1111 MARCUS AVENUE
CONDOMINIUM
LAKE SUCCESS
CONDOMINIUM PLAN
IPARK
01
CP

EXHIBIT B



DIMENSION OF UNITS

THE UNITS WERE MEASURED HORIZONTALLY FROM THE INTERIOR FACE OF THE EXTERIOR WALLS OF THE BUILDING ADJACENT TO A PARTITION OF THE UNIT (OR FROM THE EXTERIOR OF THE GLASS FORMING A PART OF THE UNIT) TO THE INTERIOR FACE OF THE OPPOSITE EXTERIOR WALLS OF THE BUILDING, OR TO THE CENTER OF THE DRYWALL PARTITIONS SEPARATING THE UNIT FROM ANY OTHER UNIT OR FROM ANY COMMON ELEMENTS; AND VERTICALLY FROM THE TOP OF THE CONCRETE FLOOR SLAB IN EACH OF THE LOWEST PARTITIONS OF THE UNIT UP TO THE UNDERSIDE OF THE ROOF OF THE BUILDING WHICH IS ADJACENT TO THE UNIT. FOR THE PURPOSE OF MEASUREMENTS SET FORTH IN THE SCHEDULES TO THIS DECLARATION, COLUMNS, MECHANICAL PIPES, SHAFTS, SHAFTSWAYS, CHASES, CHASEWAYS AND CONDUITS ARE NOT DEDUCTED AND LIMITED COMMON ELEMENTS ARE INCLUDED.

DECLARANT/ SPONSOR

NAME: IPARK LAKE SUCCESS

ADDRESS: 1111 MARCUS AVENUE, LAKE SUCCESS, NY 11021

THIS IS TO CERTIFY THAT THIS PLAN IS AN ACCURATE COPY OF A PORTION OF THE PLANS OF THE BUILDING FILED WITH AND APPROVED BY THE BUILDING DEPARTMENT OF THE TOWN OF NORTH HEMPSTEAD, NY AND FULLY AND FAIRLY DEPICTS THE LAYOUT, LOCATION, UNIT DESIGNATION AND APPROXIMATE DIMENSIONS OF THE UNITS AS BUILT.

ARCHITECT

NOTARIZATION
SWORN TO BEFORE ME THIS

DAY OF

CONDOMINIUM CERTIFICATION

THE SURVEYOR'S OFFICE, NASSAU COUNTY, HEREBY CERTIFIES THAT:

(A) THE ANNEXED FLOOR PLAN CONSISTING OF THE PLAN AND DECLARATION COVERING 4 FLOORS AND OUT BUILDINGS IN THE PREMISES KNOWN AS:

1111 MARCUS AVENUE CONDOMINIUM
1111 MARCUS AVENUE, LAKE SUCCESS, NY 11021
IN THE VILLAGE OF LAKE SUCCESS AND NORTH HEMPSTEAD, NASSAU COUNTY, STATE OF NEW YORK

(B) THE LOT DESIGNATIONS FOR THE SEPARATE UNITS SHOWN THEREON CONFORM TO THE OFFICIAL TAX LOT NUMBER DESIGNATIONS FOR SUCH UNIT AS SHOWN ON THE OFFICIAL TAX MAP OF THE VILLAGE OF LAKE SUCCESS AND NORTH HEMPSTEAD, NASSAU COUNTY.

(C) THE BUILDING EXISTED PRIOR TO 1987.

DATE

SURVEYOR
REAL PROPERTY ASSESSMENT BUREAU
SURVEYING DIVISION

i.park

CUSHMAN & WAKEFIELD.
See beyond the expected.

LEGEND

UNIT 1 - 920,059 S.F.

UNIT 2 - 475,702 S.F.

SECTION: 8
BLOCK: B18
LOTS: 300H and 300L

SITE PLAN

No.	Revision	Date	By
1	ISSUED FOR PERMIT	8/28/06	AJT

TPG ARCHITECTURE

Project
1111 MARCUS AVENUE
CONDOMINIUM
LAKE SUCCESS

Drawing Title
CONDOMINIUM PLAN
iPARK
SHEET 2 OF 2

Project No.	Scale
3005047-00	NTS
Drawn By	Date
MMC	7-10-06

TPG Architecture, LLP
TPG-Long Island, LLC
201 North Service Road, Suite 401
Melville, New York 11747
631.847.7300
FAX 631.847.7301
www.tpgarchitecture.com

Seal

Floor
01

Drawing No.
CP

AMENDMENT TO DECLARATION AND THE BY-LAWS OF CONDOMINIUM OF

1111 MARCUS AVENUE CONDOMINIUM

PREMISES:
1111 MARCUS AVENUE
LAKE SUCCESS, NEW YORK 11042

The land affected by the within instrument
lies in Section 8, Block B-18
Lots 300H and 300L
County of Nassau and State of New York

Dated as of June 20, 2014

Record and Return to:

Ganfer & Shore, LLP
360 Lexington Avenue
New York, New York 10017
Attn: Matthew J. Leeds, Esq.

AMENDMENT TO DECLARATION AND THE BY-LAWS OF CONDOMINIUM OF 1111 MARCUS AVENUE CONDOMINIUM

THIS AMENDMENT ("Amendment") to the Declaration of Condominium of 1111 Marcus Avenue Condominium ("Condominium"), by and between Marcus Avenue Unit One Nominee, LLC, having an address at c/o CT Investment Management Co., LLC, 345 Park Avenue, 42nd Floor, New York, New York 10154 and 1111 Marcus Avenue Unit 2 Owner, LLC, a Delaware limited liability company, having an address at c/o Ares Management LLC, 245 Park Avenue, 42nd Floor, New York, New York 10167, does hereby amend the Declaration of Condominium, dated June 16, 2006, and recorded on August 28, 2006, as Liber D 12164, Pages 515-633, in the Nassau County Clerk's Office (the "Declaration") and the By-laws of the Condominium (the "By-Laws") to include certain provisions regarding the operation of the Condominium, as more particularly set forth hereinbelow (the "Provisions");

WHEREAS, pursuant to Article X of the Declaration and Article XI of the Condominium's By-Laws, the Provisions, as set forth herein, and the recording of this Amendment were approved by the unanimous consent of the Unit Owners;

WHEREAS, by the unanimous consent of the Unit Owners, the Board of Managers was given the authority to act on behalf of the Unit Owners to take the actions necessary to incorporate the Provisions in the Declaration and By-Laws and have this Amendment recorded in the Nassau County Clerk's Office;

WHEREAS, Marcus Avenue Unit One Nominee, LLC, has acquired the fee simple title to Unit 1 of the Condominium immediately prior to the execution hereof.

NOW THEREFORE, the Declaration and By-Laws shall be amended to include the following additional information:

1. Article 2, Section 2.5 of the Declaration entitled "Division or Combination of Units" subsection (c)(i) is hereby amended by deleting it in its entirety and replacing it with the following:

> "(c)(i) a Unit Owner may subdivide or combine a Unit provided that the division or combination does not adversely physically affect another Unit or Unit Owner without first obtaining the consent of the Board of Managers. A Unit Owner seeking to divide its Unit (and the appurtenant Limited Common Elements) shall (1) notify the Board of Managers in writing at least thirty (30) days in advance of the intended division or combination, (2) provide copies of the preliminary plans and specifications for the division or combination prepared by an architect licensed to do business in the State of New York, (3) provide a draft of the proposed associated amendment to this Declaration, and (4) comply with all requirements set forth in this Declaration pertaining to the division and alteration of Units generally."

2. Article 2, Section 2.5 of the Declaration entitled "Division or Combination of Units" subsection (c) (ii) is hereby amended by deleting the first paragraph in its entirety and replacing it with the following Paragraph:

"(ii) If upon the review of plans and specifications for a proposed combination or subdivision, any member of the Board of Managers, acting in its capacity as a member of the Board of Managers and representing another Unit Owner (the "Objecting Owner"), notifies the Unit Owner proposing such combination or subdivision (the "Proposing Owner") in writing of any objection to the combination or subdivision on the basis that the combination or subdivision will adversely physically affect the Unit of the Objecting Owner then the Proposing Owner shall make any changes in the plans and specifications that such Proposing Owner deems reasonable. The Board of Managers will review any plans and specifications or revisions within thirty (30) days of the submission to the Board of Managers. The failure of a member of the Board of Managers to respond shall mean that such member does not object to the plans and specifications or revisions submitted. Notwithstanding the foregoing, if a member of the Board of Managers fails to object, then any other representative of an Objecting Owner shall have the right to object. If a notice of objection is sent, and the Objecting Owner and the Proposing Owner cannot reach a resolution on the proposed combination or subdivision then such matter may be submitted by either Owner to Arbitration."

3. Article 5, Section 5.6 of the Declaration entitled "Reciprocal Parking Easements" subsection 5.6(d) shall be amended by adding the words "as further shown on that certain Parking Plan attached hereto as "Exhibit A"" to the end of the subsection.

4. Article 7, Section 7.1 of the Declaration entitled "Allocation of Common Expenses" shall be amended by adding the following Paragraph to the end of subsection 7.1(b):

"Pending the resolution in Arbitration of any dispute with respect to the allocation of Common Expenses, the allocation to the affected Unit Owner of the disputed components of the Common Expenses shall be treated as it was treated the previous year, provided that upon such resolution, any resulting change in the allocation of such Common Expenses shall be effective retroactive to the effective date of the allocation or re-allocation that gave rise to the dispute."

5. Article 7, Section 7.1 of the Declaration entitled "Allocation of Common Expenses" subsection 7.1(c) shall be amended by adding the words "by a unanimous vote of the members of the Board of Managers" between the words "Condominium Board" and "may elect" and by adding the following sentence at the end of subsection 7.1(c): "Disputes with respect to this subsection 7.1(c) shall be resolved by Arbitration."

6. Article 2, Section 2.6 of the By-Laws entitled "Powers and Duties" subsection 2.6(a)(2) shall be amended by adding the words "by a unanimous vote of the members of the Board of Managers, except that decisions regarding the matters set forth in clauses (a), (n) and (o) shall be made by the Managing Agent in a manner consistent with (i) the Budget, (ii) any contractual obligation that Unit Owners and/or the Condominium are subject to (as applicable), and (iii) any written direction signed by all members of the Board of Managers, in each case," between the words "in a reasonable manner" and "in accordance with" and also by adding a new subsection as subsection 2.6(a)(2)(y):

"(y) Enforce that certain "Agreement of Environmental Remediation and Indemnity Pursuant to Article 9 of November 8, 1999 Agreement for Purchase and Sale" made as of March 20, 2000 (the "Lockheed Indemnity"), originally between Lockheed Martin Corporation, as Seller, and i.park Lake Success, LLC, as purchaser, and determine (i) whether to enter into any settlement related to the Lockheed Indemnity, and (ii) the substance of any such settlement related to the Lockheed Indemnity; provided, however, that no individual Unit Owner may take any action in respect of the Lockheed Indemnity that may impact any other Unit Owner without the unanimous consent of the Board of Managers."

7. Article 2, Section 2.6 of the By-Laws entitled "Powers and Duties" shall be amended by adding a new subsection as subsection 2.6(d) and by adding the following sentence at the end of Section 2.6: "Disputes with respect to this Section 2.6 shall be resolved by Arbitration.":

"d. Requests for Certain Approvals and Consents. Notwithstanding anything to the contrary contained herein, with respect to any request by any member of the Board of Managers for the consent or approval of any other member of the Board of Managers, as required under these By-Laws, the following provisions shall apply: With respect to any initial written request by a member of the Board of Managers for the consent or approval of any other member of the Board of Managers, if such member fails to approve or disapprove such initial written request for consent or approval within ten (10) Business Days following such member's receipt of such request, together with all reasonably necessary supporting information related thereto, then the member seeking such consent or approval shall deliver to the other member a second written request for such member's consent or approval enclosing a true, correct, and complete copy of the initial request, together with all reasonably necessary supporting information related thereto, and the member seeking such consent or approval shall (a) include on such notice conspicuously in bold, 14-point lettering with the following statement: "**FAILURE OF MEMBER TO RESPOND WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE SHALL RESULT IN DEEMED APPROVAL PURSUANT TO THE TERMS OF THE BY-LAWS OF THE CONDOMINIUM**" and (b) mark the envelope containing such notice conspicuously in bold, 14-point lettering with the word "**PRIORITY**". Provided that the member seeking such consent or approval shall have complied with the foregoing provisions, such second written request for consent or approval shall be deemed approved or consented to by the member of the Board of Managers receiving such notice (solely with respect to the subject matter of such request) if such member shall have failed to notify the other member of such member's consent or approval (or rejection or disapproval, as applicable) within (3) Business Days following such member's receipt of the second written request."

8. Article 2, Section 2.7 of the By-Laws entitled "Managing Agent and Manager" shall be amended by adding the following Paragraphs:

"(e)(1) Notwithstanding anything to the contrary contained elsewhere in this Section 2.7, for as long as (i) the entity that directly or indirectly controls Marcus Avenue Unit One Nominee, LLC on the date hereof continues to control Unit 1 Owner, or (ii) the entity that directly or indirectly controls 1111 Marcus Avenue Unit 2 Owner, LLC on the date

hereof continues to control Unit 2 Owner, the Unit 1 Owner shall have the right to remove and replace the Condominium Managing Agent with a Qualified Manager selected by the Unit 1 Owner, subject to the terms of the managing agent agreement. Unless the Board of Managers unanimously agrees otherwise, the replacement Condominium Managing Agent shall be a reputable entity experienced for at least ten (10) years in the operation and management of commercial properties of the same kind as the Property in New York City and/or Long Island and shall have reasonable familiarity with condominiums, shall not be affiliated with any Unit Owner, shall manage no less than 3,000,000 square feet at similar properties, exclusive of the Property, or any of the entities listed in clause (3) below (a "Qualified Manager"); provided, however, no proposed replacement Condominium Managing Agent shall be deemed to be a Qualified Manager or shall be permitted to be the replacement Condominium Managing Agent if such proposed replacement Condominium Managing Agent, or any controlled affiliate thereof has been engaged in a dispute with either Unit 2 Owner or a tenant of Unit 2 in the last ten (10) years or is of a reputation or character that is reasonably objectionable to Unit 2 Owner. For purposes of this Section 2.7 an entity shall be deemed to be "affiliated" with a Unit Owner if a Unit Owner or one of its affiliates owns 50% or more of that entity or such Unit Owner or one of its affiliates controls the management and day-to-day operations of such entity. Notwithstanding anything to the contrary contained in the Declaration, this Amendment, or the By-Laws to the contrary, if Unit 1 Owner selects a replacement Condominium Managing Agent that is not a Qualified Manager and the Board of Managers cannot come to a unanimous decision regarding such replacement Condominium Managing Agent, then the Condominium Managing Agent shall be selected by Arbitration. To the extent permitted by Law, the Board of Managers may delegate its powers to the Condominium Managing Agent.

(2) The Unit Owner requesting to remove the Condominium Managing Agent shall pay all costs and fees associated with the removal unless such removal is for cause. The new Condominium Managing Agent may not be affiliated with the Unit Owner requesting the removal without the express approval of the non-requesting Unit Owner.

(3) Qualified Managers include each of the following entities or any of their wholly-owned affiliates: (i) Winthrop Management; (ii) Equity Office; (iii) Cushman & Wakefield; (iv) Newmark Grubb Knight Frank; (v) Jones Lang LaSalle; (vi) CBRE; and (vii) Cassidy Turley."

9. Article 2, Section 2.11 of the By-Laws entitled "Quorums, Adjournments and Determinations" subsection (a) shall be amended by adding the words "or the Declaration" between the words "these By-Laws" and "all determinations" and by adding the following to the end of the paragraph "with at least one member being present from Unit 1 and Unit 2."

10. Article 4, Section 4.1 of the By-Laws entitled "Designation" shall be amended by adding the following sentence to the end of the section:

"One of the persons designated or appointed by Unit 1 Owner to the Board of Managers shall be appointed as President of the Board of Managers and the person designated or

appointed by Unit 2 Owner to the Board of Managers shall be appointed as the Vice President of the Board of Managers."

11. Article 4, Section 4.3 of the By-Laws entitled "Officers of the Board of Managers" subsection (b) shall be amended by adding the following paragraph to the end of the section:

"Any Vice President appointed by Unit 2 Owner shall have the right, on behalf of Unit 2 Owner to execute any documents required to allow the Owner of Unit 2 to exercise any rights granted to Unit 2 Owner under the By-Laws or the Declaration."

12. Article 5, Section 5.1 of the By-Laws entitled "Determination of Common Expenses and Fixing of Common Charges" is hereby amended by deleting it in its entirety subparagraphs (a) and (b) and by adding the following Paragraphs:

(a) "At least forty-five (45) days prior to the first day of each calendar year, the Condominium Managing Agent shall, prepare and submit to the Board of Managers for its review and approval a budget (such budget as and when so approved, and/or deemed approved, as the case may be, in accordance with these By-Laws, the "Budget") setting forth its projection of Common Expenses, subject to requirements of Law and in all instances in accordance with the Declaration and By-Laws, and will allocate the Common Charges among the Unit Owners and assess charges accordingly to meet the Common Expenses.

(a)(1) The Board of Managers shall advise the Unit Owners promptly in writing of the amount of the Common Charges payable by each of them and shall furnish to such parties copies of each Budget on which such Common Charges are based.

(a)(2) If the members of the Board of Managers are unable to unanimously agree on the adoption of the Budget, then the prior year's Budget shall apply together with a five percent (5%) increase pending the resolution of any such dispute. Any dispute shall be submitted to Arbitration as provided for in Article 7 of the Declaration

(b) There shall be no right of a Unit Owner to reduce its Common Charges by opting out of any services or waiving any benefits provided by the Board of Managers."

13. The Declaration, as amended and modified by this Amendment, is incorporated herein by reference with the same force and effect as if set forth at length. Except as amended herein, all other terms and provisions of the Declaration and By-Laws are hereby ratified and confirmed and shall remain in full force and effect.

14. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

15. Any capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Declaration or By-Laws.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by its duly authorized representative as of the date first set forth above.

UNIT OWNER 1:

MARCUS AVENUE UNIT ONE NOMINEE, LLC,
a Delaware limited liability company

By: **U.S. BANK NATIONAL ASSOCIATION, SUCCESS-IN-INTEREST TO WELLS FARGO BANK, N.A. AS TRUSTEE FOR THE REGISTERED HOLDERS OF J.P. MORGAN CHASE COMMERCIAL MORTGAGE SECURITIES CORP., COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-FL2**

By: **CT INVESTMENT MANAGEMENT CO., LLC**, a Delaware limited liability company, as Special Servicer and attorney-in-fact for the registered holders of the J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2006-FL2

By: _____
Name: Peter H. Smith
Title: Director

UNIT OWNER 2:

1111 MARCUS AVENUE UNIT 2 OWNER, LLC,
a Delaware limited liability company

By: _____
Name: Stuart Koenig
Title: Vice President

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 7 day of May, in the year 2014, before me, the undersigned, a Notary Public in and for said state, personally appeared Peter H. Smith, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Migdalia Thomas

Notary Public

MIGDALIA THOMAS
Notary Public, State of New York
No. 01TH6291822
Qualified in Queens County
Commission Expires 10/21/2017

STATE OF NEW YORK)
) ss.:
COUNTY OF New York)

On the 6th day of May, in the year 2014, before me, the undersigned, a Notary Public in and for said state, personally appeared Stuart Loevig, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

KIMBERLY RODRIGUEZ
Notary Public, State of New York
No. 01RO6218332 Qualified in Westchester County
Certificate filed in New York County
Commission Expires March 1, 2018

Bronx

THIRD AMENDMENT TO DECLARATION OF CONDOMINIUM OF

1111 MARCUS AVENUE CONDOMINIUM

PREMISES:
1111 MARCUS AVENUE
LAKE SUCCESS, NEW YORK 11042

The land affected by the within instrument
lies in Section 8, Block B18
Lots 300H and 300L
County of Nassau and State of New York

Dated as of March 26, 2015

Record and Return to:

Kelley Drye & Warren LLP
101 Park Avenue
New York, New York 10178
Attn: W. Christian Drewes, Esq.

THIRD AMENDMENT TO DECLARATION OF CONDOMINIUM OF
1111 MARCUS AVENUE CONDOMINIUM

This Third Amendment ("Third Amendment") to the Declaration of Condominium of 1111 Marcus Avenue Condominium ("Condominium"), dated as of March 26, 2015, by and between MARCUS AVENUE UNIT ONE NOMINEE LLC, a Delaware limited liability company, having an address at c/o CT Investment Management Co., LLC, 345 Park Avenue, 42nd Floor, New York, New York 10154 and LONG ISLAND JEWISH MEDICAL CENTER, a New York not-for-profit corporation established pursuant to Article 28 of the New York Public Health Law, having an address at 145 Community Drive, Great Neck, New York 11021, and consented to by CGA MORTGAGE CAPITAL, LLC, a Maryland limited liability company, as recognized mortgagee, having an address at 9690 Deereco Road, Lutherville, Maryland 21093, does hereby amend the Declaration of Condominium dated June 16, 2006 and recorded on August 28, 2006 in the Nassau County Clerk's Office in Liber 12164 of Deeds, Pages 515-633 (the "Original Declaration"), as amended by First Amendment to Declaration of Condominium dated as of September 24, 2012 and recorded in the Nassau County Clerk's Office in Liber 12904 of Deeds, Pages 801-813 (the "First Amendment") and as further amended by Amendment to Declaration and the By-Laws of Condominium of 1111 Marcus Avenue Condominium dated as of June 20, 2014 2012 and recorded in the Nassau County Clerk's Office in Liber 13094 of Deeds, Pages 913-924 (the "Second Amendment , referred to collectively with the Original Declaration and the First Amendment as the "Declaration").

WHEREAS, the floor plan (the "Floor Plan") of the Condominium, attached to the First Amendment as Exhibit D and attached hereto as Exhibit A, incorrectly identified as part of Unit 2 certain premises known as the "South Annex Premises" that should instead be designated part

of the Limited Common Elements appurtenant to Unit 2 (a corrected copy of the Floor Plan is attached hereto as Exhibit B); and

WHEREAS, the parties wish to correct and clarify certain other provisions of the Declaration as set forth herein; and

WHEREAS, pursuant to Article 10 of the Declaration, the Declaration may be amended with the written consent of both the Unit 1 Owner and the Unit 2 Owner, as well as any Permitted Mortgagee; and

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the same meanings as in the Declaration or the By-Laws of the Condominium;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. The Floor Plan set forth in Exhibit A is corrected by substituting therefor the Floor Plan annexed hereto as Exhibit B; and accordingly, the Square Footage and the Common Interests of the respective Units shall be modified as follows:

Unit Number	**Square Footage**	**Common Interest**
Unit 1	931,890	67.99%
Unit 2	438,766	32.01%

2. Section 4.2(b) of the Declaration is amended by adding the following sentence at the end thereof:

> "No improvements or alterations shall be made in or to any Limited Common Element without the express written consent of the Unit Owner of the Unit to which such Limited Common Element pertains, which consent may be withheld in such Unit Owner's sole discretion."

3. There shall be added to Section 7.1 of the Declaration a new subsection (e), as follows:

> "(e) The annual payments of $100,000.00 provided for in that certain Declaration of Covenants and Restrictions dated as of September 5, 2012 and recorded in the Nassau County Clerk's Office in Liber 12882 of Deeds, Pages 380-384, shall be deemed Common Charges, and accordingly shall be allocated between the Unit Owners in accordance with their respective Common Interests."

and the current subsection 7.1(e) shall be re-lettered subsection (f).

4. Section 11.3(b), clause (ii) of the Declaration is amended such that after the phrase "so that the Unit 2 Owner shall have the rights and limitations of the Tenant under the Article XII Provisions," the words "the Unit 1 Owner" shall be deleted and replaced with the words "the Board"; and accordingly, for clarity, the electrical substation used in the distribution of electricity to the Property shall be deemed a Common Element.

5. Section 11.3(c) of the Declaration is deleted in its entirety.

6. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Third Amendment to be executed by their duly authorized representatives as of the date set forth above.

UNIT 1 OWNER:

MARCUS AVENUE UNIT ONE NOMINEE LLC, a Delaware limited liability company

By: U.S. BANK NATIONAL ASSOCIATION, SUCCESS-IN-INTEREST TO WELLS FARGO BANK, N.A. AS TRUSTEE FOR THE REGISTERED HOLDERS OF J.P. MORGAN CHASE COMMERCIAL MORTGAGE SECURITIES CORP., COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-FL2

By: CT INVESTMENT MANAGEMENT CO., LLC, a Delaware limited liability company, as Special Servicer and attorney-in-fact for the registered holders of the J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2006-FL2

By: _____
Name: Peter H. Smith
Title: Director

UNIT 2 OWNER:

LONG ISLAND JEWISH MEDICAL CENTER

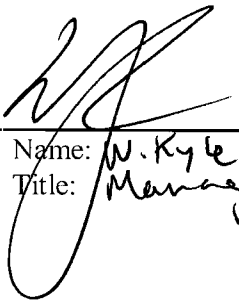
By:_____

Name: Eugene Tangney
Title: Senior Vice President and Chief Administrative Officer

CONSENTED TO:

RECOGNIZED MORTGAGEE:

CGA MORTGAGE CAPITAL, LLC



By: _____

Name: N. Kyle Gore

Title: Managing Director

STATE OF NEW YORK)

)ss:

COUNTY OF New York)

On the 26 day of March, in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared Peter H. Smith personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument

Migdalia Thomas

Notary Public

MIGDALIA THOMAS
Notary Public, State of New York
No. 01TH6291822
Qualified in Queens County
Commission Expires 10/21/2017

STATE OF NEW YORK)

)ss:

COUNTY OF Nassau)

On the 24th day of March, in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared Eugene Tingey, SVP, Chief Admin Officer, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument

Harry E. Gindi

Notary Public

HARRY E. GINDI
NOTARY PUBLIC, State of New York
No. 24-4666191
Qualified in Kings County
Commission Expires January 31, 2019

STATE OF ~~NEW YORK~~ MARYLAND)

)ss:

COUNTY OF BALTIMORE)

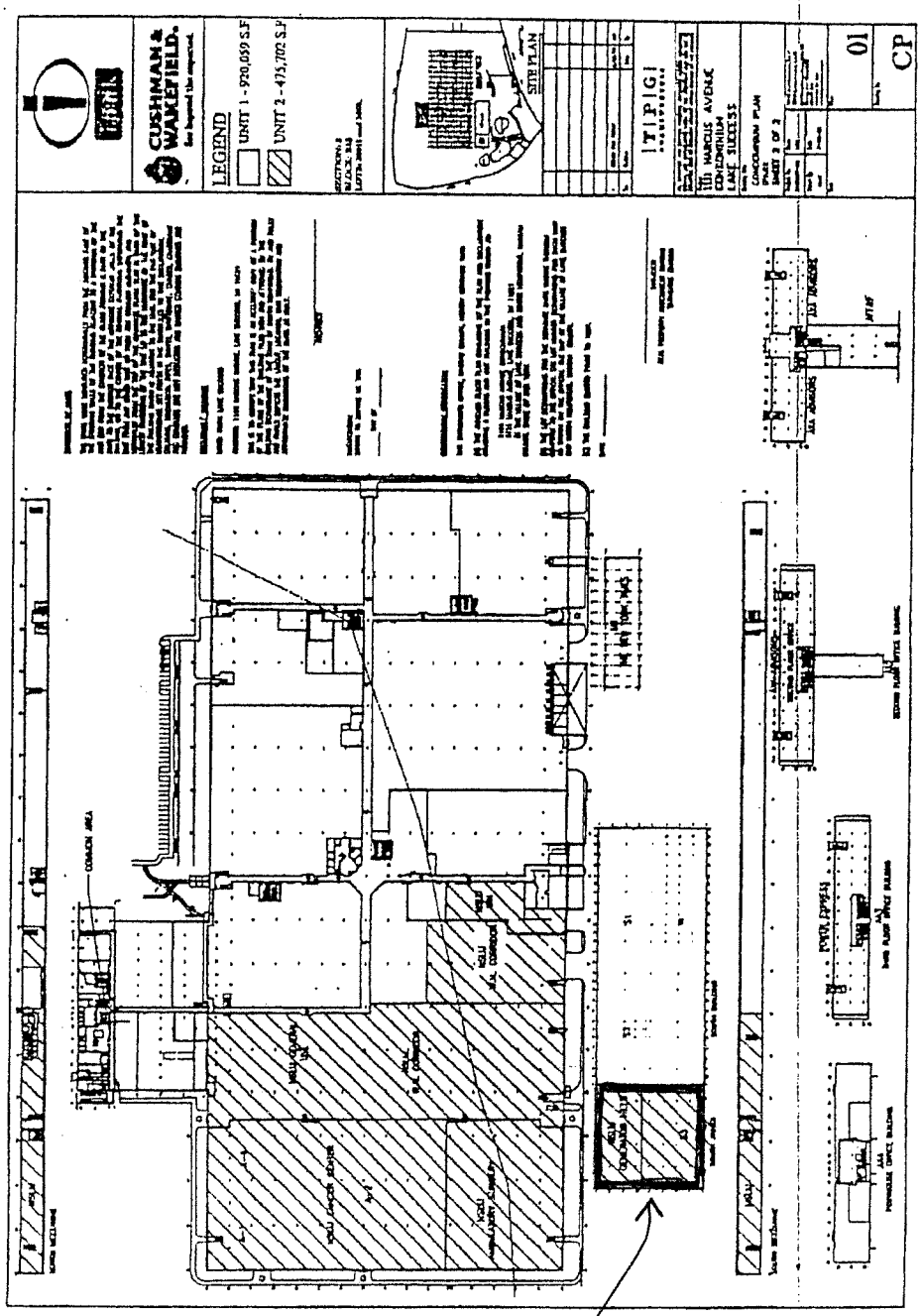
On the 25th day of March, in the year 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared W. Kyle Gore, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument

Notary Public

JOYCE ANN RETHEMEYER
Notary Public, State of Maryland
County of Baltimore
My Commission Expires June 7, 2016

EXHIBIT A

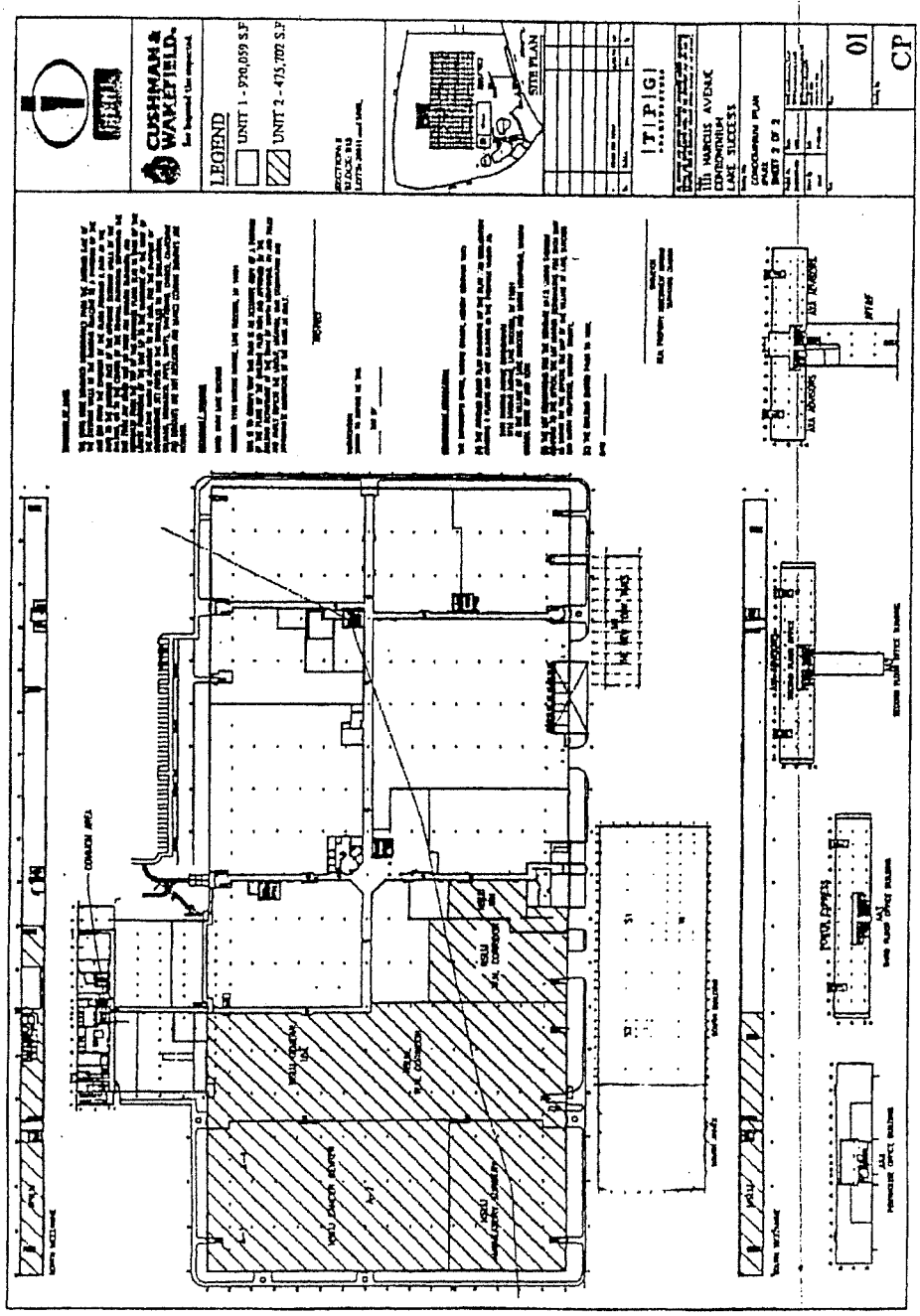
Old Floor Plan



NC CLERK

EXHIBIT B

Corrected Floor Plan



NC CLERK

Exhibit B

1111 MARCUS AVENUE CONDOMINIUM

MANAGEMENT CONTRACT

THIS MANAGEMENT CONTRACT (the "Contract") is made and entered into on this ____ day of March, 2015, by and between **1111 Marcus Avenue Condominium**, acting by and through its Condominium Board (the "Condominium"), and **Winthrop Management L.P**., a Delaware limited partnership (the "Managing Company").

W I T N E S S E T H:

A. The Condominium Board is the entity responsible for the operation of the Condominium, located at 1111 Marcus Avenue, in Lake Success, Nassau County, New York, established by the Declaration of Condominium of 1111 Marcus Avenue Condominium dated June 16, 2006, and recorded on August 28, 2006, as Liber D 12164, Pages 515-633, in Nassau County (the "Original Declaration"), as amended by First Amendment to Declaration of Condominium of 1111 Marcus Avenue Condominium dated as of September 24, 2012 (the "First Amendment") and Amendment to Declaration and the By-Laws of Condominium of 1111 Marcus Avenue Condominium dated as of June 20, 2014 (the "Second Amendment"; collectively, the Original Declaration, First Amendment and Second Amendment are referred to herein as the "Declaration") and the By-Laws of the Condominium (the "By-Laws"), which Condominium consists of two (2) units (the "Units"). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Declaration and By-laws.

B. Section 2.7 of the By-Laws provides that the Board of Managers may employ for management of the General Common Elements of the Condominium a Condominium Management Agent.

C. The Condominium Board desires to retain Managing Company, and Managing Company desires to be so retained, to manage the Condominium as the Condominium Management Agent.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration received by each party from the other, the receipt, adequacy and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

1. **EXCLUSIVE MANAGER.** The Condominium Board hereby retains and appoints Managing Company, and Managing Company hereby accepts such retainer and appointment, on the terms and conditions hereinafter set forth, as exclusive manager of the Condominium.

2. **TERM.** This Contract shall commence on the ___ day of March, 2015 and shall continue for a term ending on the last day of the month one (1) year thereafter, subject to termination by either party as provided in Paragraph 11 herein. Unless either party provides not less than thirty (30) days' written notice prior to the then expiration date, this Contract shall automatically be extended on a year to year basis.

3. **MANAGING COMPANY'S DUTIES.** During the term hereof, Managing Company shall assist the Condominium Board in performing the following services as requested by the Condominium Board, when and if needed, or as otherwise specified herein, to assist the Condominium Board:

3.1 Managing Company shall employ and supervise such persons as needed (which person or persons may be employed on a part-time or full-time basis) or assist the Condominium Board in engaging as independent contractors or employees working on behalf of the Condominium Board such persons, firms or companies necessary to properly maintain and operate the Condominium, according to Managing Company's reasonable judgment, the budget of the Condominium and the directives of the Board of Managers. The Condominium Board understands that all personnel so employed by Managing Company shall be Managing Company's employees. Managing Company shall also assist the Condominium Board in coordinating the work of any independent contractors engaged by the Condominium Board with the day to day activities of the Condominium Board. However, under no circumstances shall Managing Company or an employee of Managing Company be designated to serve as the Condominium Board's representative in any contract.

3.2 Provide the day-to-day accounting services, as needed or monthly, necessary to pay the bills of the Condominium. This service shall include, but not be limited to, keeping all records of and performing all services in connection with the payment of bills, payrolls and such other items as may be provided for in the budget.

3.3 Collect all regular and special assessments levied by the Board of Managers, as needed or monthly, from the Unit Owners, which may be due the Condominium. The Condominium Board hereby authorizes Managing Company to request, demand, collect, receive and receipt for any and all assessments and charges which may be due the Condominium and to advise the Condominium Board's attorney or collection agent to take such action in the name, and on behalf, of the Condominium Board by way of making, recording, satisfying or foreclosing the Condominium's liens therefore, initiating legal process or taking such other action as Managing Company shall deem necessary or appropriate, in its reasonable judgment, subject to the Condominium Board's approval, for the collection of such assessments.

Upon the commencement of this Contract, the Board of Managers authorizes Managing Company to invoice each Unit Owner for two (2) month's regular assessment which shall be deposited in the Account (as defined herein) to provide Managing Company with initial working capital to pay for the costs and expenses provided for herein.

3.4 Cause those portions of the General Common Elements of the Condominium to be maintained and repaired including, but not limited to, landscaping, painting, roofing, cleaning and such other ordinary and extraordinary maintenance and repair work as may be necessary consistent with the approved budget or as requested by the Condominium Board; provided, however, the Managing Company shall not obligate the Condominium Board for any single item of repair, replacement, refurnishing or refurbishing, the cost of which exceeds the sum of Fifteen Thousand Dollars ($15,000.00) without the prior approval of the Board of Managers, unless provided for in the approved budget of the Condominium Board. It is the express intention of the parties that the maintenance and repair costs in excess of $15,000 not be

divided up into smaller increments to avoid the $15,000 limit. Maintenance and repair costs are to be aggregated as much as reasonably possible to ensure that the Board of Managers has maximum control to approve these costs. Notwithstanding anything contained herein to the contrary, Managing Company shall have the right, but not the duty, without first obtaining the approval of the Condominium Board, to make emergency repairs and replacements which, according to Managing Company's reasonable belief, are required to eliminate or avoid danger to persons or to property, or as are necessary in Managing Company's reasonable belief for the preservation and safety of the Condominium or for the safety of persons or in order to avoid suspension of any necessary service to the Condominium or any Unit Owner.

3.5 Take such actions as may be reasonably necessary to advise the Condominium Board, Unit Owners and/ or occupants of the need to comply with all pertinent laws, statutes, ordinances and rules of appropriate governmental authorities having jurisdiction, and advise the Condominium Board, Unit Owners and/or occupants of any violations thereof actually known by Managing Company. Furthermore, Managing Company shall advise Unit Owners and occupants of Units of the need to comply with the Declaration and By-Laws and applicable rules and regulations, in connection with the operation of the Condominium and any violations thereof actually known by Managing Company. Notwithstanding anything contained in this Contract to the contrary, the Condominium Board hereby acknowledges that in no event shall Managing Company be liable for the failure of the Condominium Board, the Unit Owners and occupants of Units to comply with all such laws, statutes, ordinances and rules of governmental authorities and the Declaration and By-Laws of the Condominium and applicable rules and regulations of the Condominium. Notwithstanding anything to the contrary contained herein, Managing Company does not have the authority to provide and shall not be responsible for providing legal advice to the Condominium Board regarding the interpretation or application of law.

3.6 Purchase, as needed, on behalf of the Condominium Board, all supplies and materials as may be necessary or desirable for the maintenance, upkeep, repair, replacement and preservation of the Condominium property. Such purchases shall be made in the name of the Condominium Board. Any such purchases in excess of Fifteen Thousand Dollars ($15,000.00) shall be subject to the prior consent of the Board of Managers unless provided for in the approved budget of the Condominium Board. It is the express intention of the parties that the $15,000 limit on purchasing supplies and materials for maintenance and repair not be divided into smaller increments to avoid the $15,000 limit. Materials and supplies are to be aggregated as much as possible to maximize Condominium Board approval of these expenses.

3.7 Subject to the direction of the Condominium Board and the Condominium Board budget, Managing Company shall solicit, analyze and negotiate contracts on behalf of the Condominium Board, as needed or annually, for services reasonably necessary with respect to the operation, maintenance, upkeep, repair, replacement, and preservation of the Condominium property. All contracts shall be approved and executed by the Board of Managers. The Condominium Board acknowledges that within the scope of this Contract and in carrying out all of its duties and responsibilities hereunder, including but not limited to those set forth in this paragraph, Managing Company is acting solely as an agent for the Condominium Board and, accordingly, any expenses or liabilities incurred by Managing Company hereunder, whether in its name or that of the Condominium Board, shall be the sole obligation of the Condominium

Board and not that of Managing Company. Neither Managing Company nor any of its partners, members, stockholders, officers, directors, employees, servants or agents shall be personally liable in any fashion for any contract made in compliance with the provisions of this Contract. The Condominium Board shall defend, indemnify and hold Managing Company harmless from any such liability as provided in Paragraphs 4 and 15 of this Contract and shall procure contractual liability insurance covering this obligation.

3.8 Approve all bills received by the Condominium Board, as needed or monthly, for services, work and supplies ordered in connection with maintaining and operating the Condominium, and cause to be paid by the Condominium Board all such proper bills as and when the same shall become due and payable, but pursuant to Paragraphs 4 and 15 of this Contract, Managing Company shall not be liable for the failure to pay any such bills.

3.9 Maintain, as needed, the Condominium Board's financial record books, accounts and other financial related records as provided by the By-Laws and pursuant to New York law and issue certificates of account to Unit Owners and their mortgagees and lienors together with such other documents as may be generally requested or provided in connection with sales, mortgages, or other transfers of Units or interests therein. Managing Company may charge reasonable fees to Unit Owners, purchasers of Units, their mortgagees and lienors as additional compensation to Managing Company for the preparation of a certificate of account and for such other documents as may be generally requested or provided in connection with sales, mortgages, or other transfers of Units or interests therein, to the extent not prohibited by applicable law, and for preparation and delivery of documents to be delivered to a purchaser in connection with the sale of a Unit. The records shall be kept at the office of Managing Company or at a location designated by Managing Company, and shall be available for inspection by the Condominium Board and Unit Owners. The parties agree that an annual compilation, review or audit of the financial records shall be made by an independent certified public accountant employed by, and at the cost, expense and approval of the Condominium Board and at such times as determined by the Condominium Board. For extraordinary or repeated records inspection requests, Managing Company may charge the Condominium Board a reasonable administrative fee for the time required to produce documents for inspection by a member of the Condominium Board and for the time of a representative of Managing Company to oversee the inspection.

3.10 Prepare, annually, a suggested operating budget for the Condominium Board setting forth an itemized statement of anticipated receipts and disbursements based upon the then current schedule for assessments and taking into account the general condition of the Condominium. Said budget, together with an explanatory statement, shall be submitted to the Board for final approval on or before forty-five (45) days prior to the first day of each calendar year. The budget shall serve as a supporting document for the schedule of assessments. If the Condominium Board shall fail to notify Managing Company of its approval or disapproval of the budget by the commencement of the applicable calendar year, Managing Company shall be permitted to proceed under the prior year's approved operating budget with a 3% increase to each discretionary line item and the appropriate increase for non-discretionary line items (i.e., taxes) until a proposed budget has been approved hereunder.

3.11 Retain and engage, as needed, at the Condominium Board's direction,

approval and expense and as agents of the Condominium Board, such attorneys, accountants, insurance consultants, tax consultants and other experts and professionals, whose services the Condominium Board may reasonably require.

3.12 Obtain quotes for casualty and liability insurance coverage for the Condominium Board in the form and amounts required by the Declaration and By-Laws, as recommended by the Condominium Board's insurance agent, and maintain, as needed, appropriate records of all insurance coverage carried by the Condominium Board.

3.13 Establish the salaries and other compensation of all on-site and off-site employees of Managing Company, which need not be approved by Board of Managers if consistent with such compensation as set forth in the approved operating budget. In the event Managing Company determines it necessary to pay compensation in excess of the compensation set forth in the approved operating budget, Managing Agent shall obtain the approval of Board of Managers. The salaries and other compensation for all on-site employees shall be charged to the Condominium and paid directly from the Account (as defined in Section 3.16 herein). Upon the Condominium Board's request, Managing Company shall provide to the Board of Managers a list of all on-site employees and their salaries and other compensation. In addition, a portion of the salaries and other compensation of certain off-site employees of Managing Company, such as those persons who perform (or provide support to) accounting functions, collection and legal services, shall be charged to the Condominium and paid directly from the Account.

3.14 Engage a payroll processing service or other entity, at the Condominium Board's direction and expense, to prepare, as needed, all payroll and file the necessary forms, as needed, for employment insurance, withholding and social security taxes and all other forms relating to employment of Managing Agent's and the Condominium Board's employees, if any, required by federal, state or municipal authorities.

3.15 Prepare and send, as needed, all letters, reports and notices as may be reasonably requested by the Board of Managers, and attend, as needed, monthly meetings of the Board of Managers, annual meeting and budget meeting of the Condominium Board and file minutes thereof, which minutes shall be prepared and recorded by the Condominium Board or its designee. Any meetings in addition to those set forth above (which may be held after 5 PM Monday through Friday) not held during normal business hours (i.e., 8 am to 5 pm, Monday through Friday), or any meetings held between the hours of 5 pm Friday through 8 am Monday, or on holidays, shall be arranged at an additional expense to the Condominium Board of Two Hundred Dollars ($200.00) per meeting.

3.16 Deposit, as needed or weekly, all funds collected from Unit Owners and others into a bank account ("Account") established by Managing Company as custodian for the Condominium Board so that said funds may be withdrawn therefrom to pay all expenses of operation and maintenance of the Condominium as contemplated herein. The Account will be styled so as to indicate the custodial nature thereof and the funds therein will not be commingled with other funds collected by Managing Company as agents for others or otherwise. Managing Company shall not be liable for any loss resulting from the insolvency of such depository.

3.17 Perform routine visual property inspections and make recommendations to the Board of Managers as to maintenance and improvements to the General Common Elements.

3.18 Provide regular reports to the Board of Managers of the status of pending and completed operations affecting the Condominium Board.

4. **AGENCY.** All actions taken by Managing Company with respect to management and maintenance under the provisions of this Contract as approved by the Condominium Board if such approval is required under this Contract shall be taken solely as an agent of the Condominium Board. Accordingly, all obligations or expenses incurred in the performance of Managing Company's duties and obligations shall be for the account, on behalf of, in assistance to and at the expense of the Condominium Board, except as is otherwise expressly provided herein. Managing Company shall not be obligated to make any advances to or for the account of the Condominium Board or to pay any sum, except out of funds held or provided by the Condominium Board or by its members or occupants of Units, nor shall Managing Company be obligated to incur any liability or obligation on behalf of the Condominium Board without absolute and unconditional assurance that the necessary funds for the discharge thereof are immediately and presently available.

5. **INSURANCE.** The insurance requirements set out in the following sub-paragraphs are independent from all other obligations of the parties to this Contract and apply whether or not required by any other provision of the Contract, and regardless of the enforceability of any other provisions of this Contract. If, at any time, either party hereto allows any of its required insurance policies to lapse, the other party may immediately terminate this Contract upon delivery of written notice to the other party.

5.1 The Condominium Board hereby agrees to maintain at all times and to provide to Managing Company evidence of the insurance coverages required by Article 6 of the By-laws. The Condominium Board shall name Managing Company as an additional insured under the Condominium's general liability insurance policy, to cover any and all expenses, including attorney's fees, reasonably incurred by or imposed upon Managing Company in connection with any action, suit, or other proceeding, (including any settlement of any suit or proceeding), to which Managing Company may be a party or in which it may become involved by reason of being or having been the Condominium Managing Agent.

5.2 Managing Company hereby agrees to maintain at all times and to provide evidence of the following insurance coverages:

A. Workers' Compensation Insurance according to State statutory limits covering all employees of Managing Company, with employer's liability limits of not less than $500,000.00 each accident for bodily injury, $500,000.00 each employee for bodily injury caused by disease, and $500,000.00 policy limit for bodily injury caused by disease.

B. Commercial Crime/Fidelity Insurance with limits of not less than $500,000.00 for employee dishonesty. Coverage must include third party endorsement or add Condominium Board as Loss Payee. Deductibles must be acceptable to the Condominium Board.

C. Prior to the commencement of work under this Contract, Managing Company shall provide a current and original Certificate of Insurance showing the coverages outlined above. On the renewal date of any insurance policies required by this Contract, Managing Company will supply the Condominium Board with a new, original Certificate of Insurance in compliance with all terms of this Contract.

6. **COST REIMBURSEMENT.**

6.1 Except as is otherwise expressly provided herein, the Condominium Board shall pay or reimburse Managing Company for all costs and expenses which may be incurred by Managing Company in providing services, materials and supplies, including without limitation, the cost and expenses of its employees and office rent at the Condominium, so long as the same are consistent with the approved operating budget or otherwise requested by the Condominium Board immediately upon receipt of an invoice therefore.

6.2 Without limiting the provisions of Paragraph 6.1, for restoration of common elements after Acts of God and other insurable claims such as, without limitation, hurricanes, fire or floods, the Condominium Board agrees to reimburse Managing Company five percent (5%) of the total cost of the project for the additional administrative burden Managing Company will incur in coordinating the repair and restoration process by contractors engaged by the Condominium Board with the day to day activities of the Condominium Board. Managing Company may also charge such a cost to the Condominium Board for other construction projects undertaken by the Condominium Board which the Managing Company reasonably determines will create additional administrative burdens.

7. **MANAGING COMPANY'S UNDERTAKING.** Managing Company, by the execution of this Contract, assumes and undertakes to perform, carry out and administer all management, operational and maintenance responsibilities set forth in Paragraph 3 hereof. Such assumption of obligations is limited, however, to operation, management and maintenance as agent and does not require Managing Company to pay any of the costs and expenses which are the obligation of the Condominium Board, except as specifically assumed by Managing Company in this Contract.

8. **RIGHT OF ACCESS.** Managing Company shall have access to the Common Elements at all times as may be necessary so as to perform its duties hereunder.

9. **COMPENSATION.** In addition to all actual costs and expenses for which the Condominium Board shall pay Managing Company, pursuant to Paragraph 6 and other pertinent paragraphs hereof, the Condominium Board agrees to pay Managing Company a base fee of Two Hundred and Thirty Thousand Dollars ($230,000.00) per annum ("Base Fee"), payable in equal monthly installments in advance on the first day of each month, until the expiration or termination of this Contract, as provided under Paragraphs 2 and 11 hereof, which Managing Company may deduct from the Account on a monthly basis. The Condominium Board agrees that all outstanding balances due in excess of thirty (30) days will be assessed interest at the maximum rate as allowed by law on the unpaid balance. Further, if payments for reimbursable payroll are more than fifteen (15) days delinquent, Managing Company shall have the ability, notwithstanding anything to the contrary contained in this Contract, to remove on-site staff

members upon seven (7) days' written notice to the Condominium Board. During the period of time that on-site staff members have been removed from the property, Managing Company shall have no responsibility for performance of services under this Contract that would be performed by on-site staff members. By agreement between Managing Company and the Board of Managers, the compensation payable to Managing Company may be amended to the amount reflected each year in the operating budget of the Condominium by the Condominium Board for the ensuing year.

In addition to the foregoing, as part of its management services, Managing Company shall supervise any and all extraordinary repairs and/or capital improvements to the General Common Elements as shall be directed by Condominium Board, and be compensated an amount equal to ten percent (10%) of the cost of such repairs and/or improvements up to $199,999.00, eight percent (8%) of the costs between $200,000.00 up to $399,999.00 of the costs and six percent (6%) of the cost above $400,000.00 for each project

10. **DESIGNATION.** The Condominium Board shall designate in writing a single individual who shall be authorized to deal with Managing Company on any matter relating to this Contract. In the absence of any such designation, the President of the Condominium Board shall have this authority. The Condominium Board shall not interfere nor permit, allow or cause any of its Officers, Directors or members to interfere with Managing Company in the performance of its duties or in the exercise of any of its powers hereunder.

11. **TERMINATION.** At any time during the term of this Contract, either party shall have the right to terminate the Contract with or without cause upon no less than ninety (90) days' prior written notice to the other party, and if such notice is given, the term shall expire at the end of the month in which the ninetieth (90^{th}) day after such notice occurs. The notice may be hand delivered or mailed via certified mail to the authorized representative of the Condominium Board or Managing Company as applicable as set out in Paragraph 13 of this Contract, whereupon such notice shall be deemed effective upon delivery. By the effective termination date, and except as otherwise directed by Condominium Board, Managing Company shall cause the following to occur:

11.1 STOP WORK. Managing Company shall stop such work pursuant to this Contract on the date, and to the extent specified, in the notice of termination.

11.2 NO NEW ORDERS. Managing Company shall place no new orders with contractors or subcontractors for materials, service or facilities, except as may be necessary for the completion of such portion of the work under contract at that time.

11.3 NOTIFY CONTRACTORS. Managing Company shall notify all contractors and subcontractors of the terms of the notice of termination.

11.4 ASSIGN CONTRACTS. Managing Company shall assign to Condominium Board, in the manner, at the times, and to the extent directed by Condominium Board, all of the rights, titles and interest of Managing Company under the contracts, if any, with contractors and subcontractors.

11.5 COMPLETE PERFORMANCE. Managing Company shall complete

performance of such part of the work as shall not have been immediately terminated by the notice of termination.

11.6 REVIEW AND DELIVERY OF RECORDS. The books, records and accounts maintained by Managing Company on behalf of the Condominium Board shall be the property of the Condominium Board. Upon the termination of this Contract, Managing Company shall turn over all such items to the Condominium Board within fifteen (15) business days after the last day of the month of such termination, so that Managing Company may prepare a final financial statement for the last month of service hereunder. Managing Company agrees that, at the Condominium Board's option, all records of the Condominium Board will be transferred electronically where available. Managing Company shall make non-privileged Condominium Board books and records available for inspection by Unit Owners as may be required of the Condominium Board under the Declaration and By-Laws. Managing Company shall assure that such books, records and accounts are available at all times (both before and after termination of this Contract), upon reasonable notice and during normal business hours, for inspection and photocopying by authorized officers and other authorized representatives of the Condominium Board.

11.7 COOPERATION WITH SUCCESSOR MANAGER: Within four (4) weeks of the date of the notice of termination, Managing Company shall meet with Condominium Board's representative and provide them with the following:

A. A schedule of termination activities including notice to vendors, banks, Condominium Board members and a proposed procedure so that the transfer of responsibilities may be completed in a businesslike manner. Managing Company shall be entitled to reimbursement for reasonable printing and postage costs associated with such notices.

B. Itemized statement of the estimated amounts due suppliers of services and goods which have been ordered by Managing Company in Condominium Board's behalf. To the extent these amounts have not been paid by the last day of the Contract, an escrow account equal to such amounts in these regards as are outstanding on the termination date shall be established to secure their payment. Managing Company and Condominium Board shall jointly control the escrow account. Condominium Board agrees to retain ultimate responsibility to the provider of such services or goods represented by an invoice.

11.8 AUDIT: At Condominium Board's expense, and at Condominium Board's option, an independent audit by a certified public accountant may be commenced within 30 days following the last day of the term of the Contract. Managing Company agrees to provide such assistance to the auditor provided the audit is concluded within sixty (60) days of the last day of the term of the Contract.

12. **ENGAGEMENT OF EMPLOYEES BY CONDOMINIUM BOARD.** The Condominium Board recognizes that Managing Company is engaged in the specialized and competitive property management and maintenance business and Managing Company invests time and money in the hiring, training and development of its employees at all levels, which

promotes productivity, efficiency and the employment of a competent and specialized workforce. Accordingly, the Condominium Board covenants and agrees that it shall not hire, employ, or otherwise engage any employees, prospective employees Managing Company presents for consideration, or former employees who provided services to the Condominium Board, or contract with or in any way engage the services of any firms employing any such employees, prospective employees Managing Company presents for consideration, or former employees of the Managing Company while this Contract remains in force and continuing for a period of twelve (12) months following the expiration or earlier termination of this Contract. For this purpose, "employees, prospective employees Managing Company presents for consideration, and former employees" are those individuals employed by Managing Company who provided services to the Condominium Board, or prospective employees who were presented to the Condominium Board for consideration, at any time during the twelve (12) month period prior to the termination or expiration of this Contract. Should the Condominium Board violate this paragraph, it agrees to pay, as liquidated damages, and not a penalty, the sum of thirty percent (30%) of the annual salary of said employee(s) at time of termination or resignation of said employee(s) by or from Managing Company. The provisions set forth in this paragraph shall survive the termination or expiration of this Contract.

13. **NOTICES.** All notices required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered either by personally delivering it by hand or FedEx or similar courier service to the person to whom notice is directed, or by depositing it with the United States Postal Service, certified mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention). Such notice shall be deemed delivered at the time of personal delivery or, if mailed, when it is deposited as provided above, but the time period in which a response to any such notice must be given or any action taken with respect thereto shall commence to run from the date it is personally delivered or, if mailed, the date of receipt of the notice by the addressee thereof, as evidenced by the return receipt. Rejection or other refusal by the addressee to accept the notice shall be deemed to be receipt of the notice. In addition, the inability to deliver the notice because of a change of address of the party of which no notice was given to the other party as provided below shall be deemed to be the receipt of the notice sent. The addresses of the parties to which notice is to be sent shall be those set forth below:

To the Condominium Board: _____
_____
_____
Attention: President

To Managing Company: Winthrop Management L.P.
7 Bulfinch Place, Suite 500, PO Box 9507
Boston, Massachusetts 02114
Attention: President

Each party hereto, by notice to the other, shall have the right at any time to change its address for notice purposes hereunder by giving notice of some other address. Notices may be delivered on behalf of the parties by their respective attorneys.

14. **INDEPENDENT CONTRACTOR.** Except to the extent otherwise expressly provided herein, Managing Company shall be deemed to be an independent contractor and not an employee of the Condominium Board. Managing Company shall be free to contract for similar services to be performed for other entities, wherever located, while it is under contract with the Condominium Board. Under no circumstances shall the Condominium Board, or any of its members, officers, directors, agents or employees, look to Managing Company as its or their employer, or a partner or principal. Nothing herein contained shall be deemed to create or be construed as constituting a joint venture or partnership between the Condominium Board and Managing Company. The Condominium Board, its members, officers, directors, agents or employees shall not be entitled to, nor shall they make any claim for, any benefits accorded to Managing Company's employees, including, but not limited to, workers' compensation, vacation or sick pay.

15. **DUTY TO INSURE AND INDEMNIFICATION.** The Condominium Board shall obtain and maintain General Liability insurance policy (which shall include an endorsement for contractual liability) during the term of this Contract that includes Managing Company as an additional insured. In addition, the Condominium Board shall obtain and maintain Directors' and Officers' liability insurance which provides coverage for Managing Company for acts committed at the express direction of the Board of Managers pursuant to this Contract. The Condominium Board shall indemnify Managing Company against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon Managing Company in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Condominium Board) to which Managing Company may be a party or in which it may become involved by reason of being or having been the Condominium Managing Agent, or in which it shall become involved by reason of Managing Company's acts committed at the express direction of the Condominium Board whether or not this Contract shall be in effect at the time such expenses are incurred; provided such indemnification shall not extend to any action, suit, or other proceeding arising in connection with any gross negligence, willful misconduct, or bad faith of Managing Company (provided, however, any wrongful acts committed at the express direction of the Condominium Board shall not be considered gross negligence, willful misconduct, or bad faith of Managing Company for purposes of this subparagraph). As a condition to this indemnity, Managing Company shall provide the Condominium Board with prompt notice of any claim, demand, loss, or action against Managing Company by reason of which the Condominium Board shall have liability to Managing Company under this indemnity.

Managing Company shall indemnify and hold the Condominium Board harmless from, and Managing Company shall defend promptly and diligently, at the sole expense of Managing Company any claim, action or proceeding against the Condominium Board, or the agents of the Condominium Board, which arises out of or in connection with the gross negligence, willful misconduct, or bad faith of Managing Company (provided, however, any wrongful acts committed at the express direction of the Condominium Board shall not be considered gross negligence, willful misconduct, or bad faith of Managing Company for purposes of this subparagraph), unless covered by the Condominium Board's liability insurance, provided, further, any acts committed at the express direction of the Condominium Board shall not be subject to such indemnification and hold harmless. As a condition to this indemnity, the Condominium Board shall provide Managing Company with prompt notice of any claim,

demand, loss, or action against the Condominium Board by reason of which Managing Company shall have liability to Condominium Board under this indemnity.

16. **WAIVER OF SUBROGATION.** The Condominium Board expressly waives all rights of subrogation against Managing Company for damages caused by perils, regardless of whether or not covered by any insurance obtained by the Condominium Board or required to be obtained by the Condominium Board pursuant to this Contract. The policies of insurance required to be carried by the Condominium Board pursuant to this Contract shall include an express waiver of subrogation either by endorsement or policy language. The waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly and whether or not the person or entity has an insurable interest in the property damaged.

17. **MISCELLANEOUS.**

17.1 In any legal action arising from this Contract or connected herewith the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred (whether pre-trial, at mediation, arbitration or trial and in any appeals).

17.2 In any litigation arising from this Contract, venue shall be Nassau County, New York.

17.3 The Condominium Board and Managing Company hereby irrevocably and unconditionally waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal action or proceeding arising out of or relating to this Contract or any agreement or transactions contemplated hereby, and for any counterclaim in connection herewith.

17.4 No waiver of a breach of any of the covenants contained in this Contract shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

17.5 No modification, release, discharge or waiver of any provision hereof shall be of any force, effect or value, unless in writing, signed by both of the parties to this Contract, their respective successors and assigns.

17.6 If any term or condition of this Contract is, to any extent, invalid or unenforceable, the remainder of this Contract is not to be affected thereby and each term and condition of this Contract is to be valid and enforceable to the fullest extent permitted by law. This Contract will be construed in accordance with the laws of the State of New York.

17.7 Managing Company shall cause to be paid periodically, as required, all financial obligations of the Condominium Board, to the extent that the Condominium Board has provided funds for the payment thereof, including, but not limited to, the following:

A. Insurance premiums on insurance carried by the Condominium Board;

B. All taxes required to be paid by the Condominium Board;

C. Utilities chargeable against the Condominium Board;

D. Building inspection fees, elevator fees, water rates and other governmental charges;

E. Managing Company's fees;

F. Such sums which shall become due and payable for expenses or other obligations incurred by the Managing Company on behalf of the Condominium Board in accordance with the budget;

G. Monthly contracted services; and

H. Such other amounts or charges as may be authorized by the Condominium Board;

17.8 Managing Company shall render to the Condominium Board on a monthly basis statements of receipts, expenses, disbursements, financial charges, reserves and bank reconciliations. These statements shall include a general analysis comparing the actual receipts and expenses to the Condominium Board's approved budget. In the event the Condominium Board cannot provide clean opening financial numbers and an updated financial statement, Managing Company shall only be responsible to produce a cash management report, an accounts payable report and an accounts receivable report reflecting information from and after the commencement of the Contract.

17.9 This Contract constitutes the entire understanding and agreement between the parties hereto, supersedes all prior written or oral agreements with respect to its subject matter. This Contract shall be binding upon the parties hereto and their respective successors and assigns.

17.10 The Condominium Board represents and warrants that the execution, delivery and performance of this Contract by the Condominium Board will not conflict with, nor result in the breach of, any agreement, whether oral or written, document, indenture or other instrument to which the Condominium Board is a party or under which it is bound. The Condominium Board further represents and warrants that it has full power and authority to execute and deliver this Contract, and to perform the obligations hereunder, and that it has taken all actions necessary to authorize the execution, delivery and performance of this Contract. The Condominium Board also represents that it is not bound by the terms of any collective bargaining agreement and there has been no action taken by its employees which would subject the Condominium Board to the collective bargaining process under applicable labor laws. The Condominium Board is not aware of any labor organizing efforts involving its employees.

17.11 Managing Company shall not in any way be considered an insurer or guarantor of security within the property. Neither shall Managing Company be held liable for any loss or damage by reason of failure to provide adequate security nor ineffectiveness of security measures undertaken. The Board of Managers on behalf of the Condominium Board,

owners and occupants of any dwelling, tenants, guests and invitees of any owner, as applicable, acknowledge that Managing Company does not represent or warrant that any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices, security systems (if any are present) will prevent loss by fire, smoke, burglary, theft, hold-up or otherwise, nor that fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices or other security systems will provide the detection or protection for which the system is designed or intended. The Board of Managers on behalf of the Condominium Board, each owner and occupant of any dwelling and each tenant, guest and invitee of an owner, as applicable, acknowledges and understands that Managing Company is not an insurer and that each owner and occupant of any Unit and each tenant, guest and invitee of any owner assumes all risks for loss or damage to persons, to Units and to the contents of Units and further acknowledges that Managing Company has made no representations or warranties nor has the Condominium Board, any owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices or other security systems recommended or installed or any security measures undertaken within the property.

17.12 The Condominium Board agrees to use reasonable efforts to provide a safe work environment for all employees provided by Managing Company. However, Managing Company shall be responsible to promptly notify the Condominium Board of any unsafe or unhealthy work conditions of which it has knowledge or should reasonably have knowledge of based on its duties hereunder.

17.13 The officers and directors of the Condominium Board and agents designated by the Board of Managers shall have the right to review, inspect and copy the books, records and accounts maintained by Managing Company on behalf of the Condominium Board during business hours at any location where the same are kept. This shall include without limitation the right to inspect, review and copy original financial records such as savings and checking account statements, bills and receipts to support all expenditures made by Managing Company on behalf of the Condominium Board contracts, insurance policies, correspondence, minutes, etc. All copying shall be at the expense of the Condominium Board.

17.14 Managing Company shall immediately notify the Board of Managers in writing of the receipt of: (i) any lawsuit (filed or unfiled); (ii) any written threats of litigation against the Condominium Board and/or any of its officers, directors, committee members and employees; and (iii) notification by any governmental entity of the assessment of any penalty or fine for failing to timely file any required document and/or pay any sum owed to such governmental entity.

17.15 Managing Company agrees that any and all discounts, rebates and refunds for services rendered on behalf of the Condominium Board and/or goods provided to the Condominium Board shall inure to be for the benefit of the Condominium Board and not Managing Company. Managing Company agrees that it will not accept any fee, rebate, kickback, direct profit or other valuable consideration on services provided by others to the Condominium Board or for supplies and materials purchased for or on behalf of the

Condominium Board. The foregoing restriction shall not prevent compensation to Managing Company for services provided to any third party. Managing Company shall disclose to the Condominium Board any such arrangements where Managing Company is to receive compensation for services performed.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written:

Witnesses:

1111 MARCUS AVENUE CONDOMINIUM,
acting by and through its Board of Managers

By: _____
Its President, appointed by the Unit 1 Owner

By: _____
Its Vice President, appointed by the Unit 2 Owner

WINTHROP MANAGEMENT L.P.

By: Winthrop Management Corp.,
Its general partner

By: _____
Name: STEVEN A. CARNEVALE
Title: SVP